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HISTORY

OF

THE HOUSE OF COMMONS,

FROM

THE CONVENTION PARLIAMENT OF 1688-9

TO THE

PASSING OF THE REFORM BILL,

IN 1832.

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BY

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RECORDER OF MACCLESFIELD.

VOLUME I.

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PREFACE.

A POPULAR History of the House of Commons, furnishing biographical notices of those members who have been most distinguished in its annals, and describing the changes in its internal economy, powers, and privileges, appears to be still wanting in our literature. In vain we look for many a likeness in the national portrait-gallery of senators who have achieved greatness within the walls of St. Stephen's Chapel;—the long array of Speakers, lawyers, country gentlemen, and men of the sword, marshalled in the procession of England's worthies, seems far from complete. How little is comparatively known of those who claimed precedence as first commoners in the land! The name of Powle, to whom belonged the peculiar honour of presiding over the Convention, sounds almost strangely in our ears; Sir John Trevor is chiefly remembered by the erroneous statement of Granger, that he put the question to the vote on his own expulsion; of the virulent declaimer Foley, the scheming Lyttleton, the "one Smith," who occupied the chair of the first Parliament of Great Britain,—scarcely more than a few empty titles and barren dates are recorded!

Nor have the great lawyers, who informed the debates with their constitutional knowledge, and whose

merits are deeply graven in the statute-book, been more fortunate in obtaining an "honest chronicler." The venerable trimmer, Serjeant Maynard, exhibiting, in his eighty-eighth year, the very impersonation of Chaucer's portraiture of

> A Serjeant-at-law wary and wise,
> That oft had been at the pervise,
> There was also; full of rich excellence,
> Discreet he was, and of great reverence;

the "gentle Somers," who redeemed his learned brothers from the charge, too common in that age, of universal corruption; the tainted learning of Sawyer and Williams; the stout-hearted Price, who rescued by his eloquence so fair a portion of the principality from the prodigal gifts of King William; the black-letter Jacobite Sir Bartholomew Shower; the impetuous Lechmere, who harangued the House immediately on taking the oaths, and was facetiously objected to by a country gentleman, as not having a right to speak, not being at the time a *sitting* member; the much-quizzed Sir Joseph Jekyll, "that good old neutral member,"—

> Who never changed his politics or wig,—

deserve to be better known. Even the most exalted in professional rank, Cowper, Harcourt, King, Parker, have been consigned to the tender mercies of genealogists, and compilers of peerages, instead of having their names written in characters that may be read in the Fasti of their country.

The history of the House itself is not less concealed from the popular gaze, locked up, as it were, in its voluminous Journals, State Trials, Parliamentary Debates, and Precedents of Hatsell. Yet even by a

lover of light reading how much interest and amusement may be found in a review of its former privileges; some obsolete, or retrenched, and some forgotten; of those hard-won rights to personal and deliberative freedom, which the progress of constitutional principles has sanctioned and matured; of its large powers both to reward and to punish; of its power of impeachments, that ponderous instrument of the vengeance of the Commons, blunted by frequent and injudicious use; of its former vindictive expulsion of members, and tyrannical sentences on offenders kneeling at the bar!

What singular changes have been wrought by Time, the great innovator, in the internal economy of the House—in the hours of meeting—in the frequency of attendance—in the length and importance of debates—in the number of members who take part in discussions—in the age of entering Parliament, in the increased intelligence of our legislators—in the order and decorum of proceedings—in the temper and tone of oratory—in its electrical power upon public opinion—in the crowded strangers' gallery—in the extent and variety of petitions!

The improved good sense of the grand inquest of the nation as a corporate body must be admitted by those who contrast the present wonders of reporting with the debates within closed doors, when all publication of what passed was strictly forbidden, and Somers jotted down in pencil the heads of discourse upon the vote of abdication; or who compare the modern publicity of the short-hand writer with the stealthy notes taken by Cave and Woodfall behind the gallery clock, and published, after an interval of six months, under

the disguise of Roman names. The well-regulated communication between the king and parliament—the subsidence of disputes and jealousies between the two branches of the legislature, once oscillating against each other—the reforms in our civil code—those anecdotes of legislation which illustrate manners—the course of criminal jurisprudence widening and deepening, and becoming ensanguined in its hue, till arrested by a wise humanity—the decided improvement as a class in the representatives of the people, and their title to rank as the first assembly of gentlemen in Europe,—can scarcely fail to interest all who delight in literature, unless, indeed, the historian be unworthy of his theme.

To fuse together these rich materials into one complete memorial, and present a graphic History of the Commons' House of Parliament is the design of the present work. It would have been too discursive, and occupied an inconvenient space, had it recounted at length the first struggles of "Goodman Burgess" with the Tudors, and his bold defiance of the Stuarts. A more recent period has therefore been selected, commencing with the Convention Parliament of 1688, and ending with the second parliament of King William IV., which suffered a total change in its constitutional character and constituency, when the royal assent was given to the Reform Bill.

Within these two strongly-marked metes and bounds, the noble introduction and eventful close to modern parliamentary records, there is comprehended a space of 144 years, which may be again subdivided into three distinguishing æras. The first

includes a space of 39 years, from the abdication of James to the death of George I. in 1727, characterized by master spirits, critical events, and stirring debate. The second æra, a sort of mezzo-termino, comprehends the reign of George II., when men in office were corrupt, and public morals low, and the general topics of discourse resembled parish vestry discussions, but still a prosperous reign, the sound common sense of Walpole promoting, even by inglorious arts, the national welfare, and Chatham's genius rescuing the age from mediocrity.

The regular publication of the debates, and troubles in America, usher in the last and most glorious epoch, the days of North and Burke—of Pitt and Fox—of Windham and Canning—of Tierney, and Brougham, and Peel, illustrated by oratory enduring as the language, and with memories of statesmen that can never die.

This volume is dedicated to the first of these periods; a model of the House of Commons, as it was at the close of the seventeenth century—a monument, however imperfect, to the sayings and deeds of those patriotic legislators, who framed the Bill of Rights, conquered France in her height of pride, established the Union with Scotland, secured the Protestant faith by the Act of Settlement, and with the Septennial Act confirmed the independence of the representatives of the people.

> Ergo ipsos quamvis angusti terminus ævi
> Excipiat neque enim plus septuma ducitur ætas
> At genus immortale manet, multosque per annos
> Stat Fortuna domus et avi numerantur avorum.

A few sentences as to the execution of the first volume. The lives of all the speakers and lawyers have been recomposed, and in the decided majority of instances are new, a circumstance which may atone for some omissions and mistakes. It is hoped that the memoirs of Harley and Somers will not be considered even relatively too long by those who bear in mind how completely the one swayed the parliaments of King William, and the other those of Queen Anne. As we approach more closely to our own times, the characters of eminent statesmen are too well known and too ably recorded to require or justify similar diffuseness. The author has searched in vain no less for a complete history of the obsolete privileges of the House, than for a narrative, illustrated by examples, of the manner in which freedom of person and of speech has been impugned, advanced, and confirmed. He is far from flattering himself that he has supplied the deficiency, but for the attempt solicits indulgence.

W. C. T.

Torrington Square,
February, 1843.

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ILLUSTRATION.

Interior of the House of Commons in 1690 . . *Frontispiece.*

HISTORY

OF

THE HOUSE OF COMMONS.

CHAPTER I.

The first speakers of the House of Commons were chosen from belted knights and commoners of distinction, the choice being made by the House, but in accordance with the previous nomination of the king. Sir Thomas Hungerford, 51 Henry III., in the year 1376, is the first named as speaker in the parliament roll, and termed *parlour*, or mouth of the House. But, as the ancient parliament-rolls recorded only the acts that passed between both Houses, and the laws that were made, omitting all matters of form and ceremony, it may be conjectured that the antiquity of the office is coeval with the sitting of the Commons apart from the Lords. In the 44th year of Henry III's. reign, their refusal to suffer the recall of Adomar, the Bishop of Winchester elect, from banishment, is signed by Petrus de Mounteforti, vice communitatis.

The head of these ambulatory parliaments, meeting one year at Winchester, another at Rutland, now summoned to Kenilworth, and anon to St. Edmondsbury, for the mere purpose of granting supplies, and re-

stricted to two or three weeks, as the commonalty kept a sharp reckoning of the wages due to "Goodman Burgess[a]," could not but share in their original insignificance. His person was not always sacred from violence, nor his authority from contempt. Sir Peter de la Mare was committed close prisoner to Nottingham Castle for having spoken too freely of the royal favourite, Alice Pierce[b]. When Sir John Pickering declared, in the name of the Commons, that the late King Edward III. had promised to discharge them of all tallages for a long time, the steward of the household, Sir Richard-le-Scroop, replied that, "saving the honour and reverence due to the king and Lords, what the Commons said was not true." The floor of the House of Lords would have been covered with gauntlets, had the audacious steward ventured such an aspersion on their veracity, but the Nether House (as they were termed, nor was the term misapplied) heard in silence, and made no sign of anger, or remonstrance.

Further humiliation was heaped upon the speaker in the reign of this petulant monarch, Richard II. A member having ventured to bring in a bill for avoiding the extravagant expenses of the king's household, he commanded the Duke of Lancaster to charge Sir John Bussey, the speaker, on his allegiance, to acquaint him who it was that brought such an impudent proposal before parliament. With an abject humility, characteristic of the times, and of the slight estimation in which both the office of speaker and the privileges of the House were then held, Sir John Bussey gave up the bill and the name of the person who had intro-

[a] Elsynge's Mode of Holding Parliaments.

[b] Parliamentary History, vol. i.

duced it, Thomas Haxey, clerk. The poor clerk was condemned to die the death of a traitor, for having taken such an unwarrantable license, but was afterwards pardoned, and his attainder in the next reign reversed.

The succeeding speaker, Thomas Thorpe, whose name has acquired great celebrity from the privileges of the House being broken in his person, met with a more tragical fate. During his speakership, we are told by D'Ewes[c], "there were repeated prorogations and adjournments of parliament. Richard, Duke of York, having gained the ascendant of the king, prepared habiliments of war in the palace of the Bishop of Durham. Thorpe, being speaker, by command of the king, seized the arms, whereupon the duke brought his action of trespass in the Exchequer against Thorpe, and upon trial that term recovered 1,000*l.* damages, and thereupon Thorpe was committed to the prison of the Fleet in execution." In vain the whole House petitioned to have their speaker restored, urging his privilege, "by common custom, time out of memory of man, and ever afore these times, used in every of the parliaments of the king's noble progenitors." Their just petition was unheeded. The Duke of York stood up in his place in the Lords' House, and declared that Thorpe, having been cast in an action of trespass, for carrying away his goods, lay now in prison in execution, where he (the duke) prayed that he might remain. His prayer was in the nature of a command, for we find in six weeks the duke installed Protector.

The peers of parliament accordingly resolved that the speaker should remain in execution, notwithstanding his privilege, and required the Commons to

[c] Sir Symonds D'Ewes' Journal.

elect a new speaker, which they did as directed. The unhappy Thorpe, being compelled to pay these exorbitant damages, fled to the king, was taken prisoner at Nottingham field, and sent to Newgate, thence committed to the Marshalsea, and at last beheaded at Haringay Park, in Middlesex. The change of dynasty was fortunate, however, for the privileges of the Commons, whose rising spirit and increased importance appear to have been engrafted on the usurpations of the government.

The first speaker in the parliament of Henry IV., Sir John Tiptoft, though he excused himself on account of his youth and want of discretion, and expressed surprise at his excuse not being received, told the monarch plainly, in open parliament, that his house was far more chargeable, yet less honourable, than that of any of his progenitors[d]. Other remarkable instances of this juvenile speaker's audacity are recorded. He required that the castle of Manlion, the key of the three kingdoms, which was kept by a foreigner, should be kept in future by Englishmen only, and assured the king that the report of the Commons having talked of his person otherwise than beseemed them was untrue, which assurance Henry IV. said he believed. Anxious to conciliate, that monarch not only bore with, but rewarded, a freedom of speech which his predecessor had punished in Haxey as treasonable. "Ille crucem tulit, hic diadema." Sir John Tiptoft was amply requited for his happy daring with a rich grant of forfeited lands, with a patent of nobility as Earl of Worcester, and (strange specimen of regal bounty) with the goods and chattels of Peter Priswick, carpenter, a felon, amounting to £150. The bold language of this lucky speaker was too dan-

[d] Prynne, cited by Hatsell.

gerous to be drawn into a precedent. The king in person told his successor, Sir Thomas Chaucer, when making the common protestation "that he expected the Commons would speak no unbecoming words, or attempt anything that was not consistent with decency." At this period, the speaker elect made no set oration, refrained from all mock excuses, prayed for no privileges, but contented himself with a protestation, that what he had to say came from the whole House; therefore requesting that, if he should haply speak anything without their consent, the same might be amended before his departure from that place.

With Sir Richard Walsgrave, 5 Richard II., commenced the prayer to be excused, but only for some real or supposed reason, and not as a mere matter of etiquette[c]. When Sir John Popham was presented to the king for his approval, 28 Henry VI., he desired to be excused on account of his age, and that a new choice might be made, to which the king assented. If the speaker elect displeased his brother members by any ill-advised address during his inauguration, he was cashiered with little ceremony. In the 1st year of Henry IV., we read of Sir John Cheney being presented by the Commons for their speaker, accepted by the king, and making the usual protestation. The next day, Sir John, with the Commons, sought a second interview of the sovereign, to announce that, by reason of a sudden disorder, he was unable to serve, and that they had elected in his stead Sir John Dorewood, who was approved. This sudden disorder, which still permitted the speaker to make his excuse in person, may not improbably have existed in the body corporate.

At the beginning of the next reign, Mr. William

[c] Elsynge.

Stourton, having made an indiscreet speech, which gave offence to the House, was compelled to resign in favour of a more wary prolocutor, John Dorewood, Junior; who told his majesty that William Stourton lay sick in his bed, and was not able to execute the office[f]. "It should seem," says Elsynge, "that Stourton lay sick for grief, and note, the king was not acquainted with their choice of a new speaker before they presented him." This laborious inquirer into the privileges of the House has mooted two important questions upon the election of speaker. First, if the Commons might choose their speaker, whether the king commands them or not; and second, whether the election be in their own absolute choice. He answers the first question in the negative; as the charge to choose their speaker has been continued from the 2 Henry IV., the long use hath made it so material, that, without the king's commandment, or leave, they cannot choose their speaker. The second query he resolves in favour of the Commons' absolute choice, contrary to the opinion of Sir Edward Coke, when elected to the office in 1592, who declared it to be no election "until your majesty giveth allowance and approbation," to which doctrine Blackstone assents. It may be doubted whether a valuable privilege was not drawn into question by the great lawyer's vague use of courtly language, whether the presenting of their speaker by the Commons was any more than a public notification of their choice. The precedent in Charles II.'s reign, when Mr. Seymour was refused by the king, and, after a sharp dispute, set aside by tacit consent, militates against this right. Upon certain points of practice, there can be no dispute that the member must be present who is put in

[f] Hatsell's Precedents.

nomination for the office of speaker, and that he should hold a seat which is uncontested[g].

The names of the speakers possess little historical interest till we come down to the reign of Henry VII. Their number is large, as they only presided over one, or, at most, two parliaments, with the exception of Roger Flower, Esq., the first below the degree of knighthood appointed to the office, who, though only "entitled to write himself down Armigero," performed the duties of speaker with such applause, as to be four times elected. The first on whom devolved that most grateful task, the returning thanks for eminent services, was Roger Hunt, who, in the presence of the king and nobles, complimented the Duke of Bedford, "nomine totius communitatis," for his warlike achievements and notable deeds in France[h].

It was a sad degradation for the House when, instead of the knightly De la Mare commending the feats of chivalry, by whose decay the honour of the realm did, and would, daily decrease, the pettifogging lawyer Dudley, a tool of Henry the Seventh's extortions, vaulted into the seat of dignity. Bacon remarks in his history of that reign, that a man may easily guess how absolutely the king took himself to be with his parliament, when his creature, Dudley, who was so odious to the public, was made speaker. As some vindication of the wounded dignity of the Commons, it should be borne in mind that Dudley, however odious, was still a gentlemen by birth, and a counsel of eminence in his profession; that, having committed acts worthy of a felon's fate, the former speaker did not disgrace in the manner of his death the dignity attached to his late office, but suffered the penalties

[g] Parliaments and Councils of England.
[h] Parliamentary History, vol. i.

of high treason, of which he was as innocent as of the sin of witchcraft. To wipe off such a deep stain upon the purity of their order, the House was permitted, in the reign of Henry VIII., to choose for speaker Sir Thomas More, the first great man, and still the greatest, of his race[1]; the first English gentleman, who signalised himself as an orator; the first writer of prose, which is still intelligible; the first layman, Chancellor of England, that celebrated magistracy, which has rarely been filled by a more learned, never by a better, man.

In pleading his disabilities, when formerly presented for his royal master's acceptance, he introduced, with classical taste, the story of Phormio lecturing Hannibal on the art of war. "If I were to presume to speak before his majesty of learning, and the well-ordering of the government, or such like matters, the king, who is so deeply learned, such a master of policy, might say to me, as Hannibal to Phormio, 'that he was an arrogant fool to presume to teach one already master of chivalry and all the art of war.'"

During his speakership, Cardinal Wolsey came into the House with all his pomp, "with his maces, with his pillars, his pole-axes, his crosse, his hatte, and the great seal too[2]," to require a subsidy of the fifth part of every man's goods, to be paid in four years. The House was silent, and the speaker, falling on his knees, excused their silence, "abashed at the sight of so noble a personage who was able to awe the wisest and most learned men in the realm."

To gloze with the tongue seems to have been such

[1] Mackintosh's History of England, vol. ii.

[2] Roper's Life of Sir T. More.

an essential attribute of the speaker, that even the pure-minded More could not escape this degradation. "Masters," quoth the cardinal, "unless it be the manner of your House, as of likelihood it is, by the mouth of your speaker, whom you have chosen for trusty, and wise (as indeed he is), in such cases to utter your minds, here is without doubt a marvellous silence."

"And thereupon," adds Roper, in his life of Sir Thomas More, "he required answer of Master Speaker." He increased the anger of the high cardinal by suggesting that, unless all the members present could put their several thoughts into his head, he alone was unable, in so weighty a matter, to give his grace a sufficient answer, and that it was neither expedient, nor agreeable with the ancient liberty of the House, to make instantaneous reply. Wolsey suddenly arose and withdrew, frustrated of his object, nor would the Commons afterwards vote more than two shillings in the pound subsidy. On resigning the chair for the woolsack, Sir Thomas More was succeeded by another lawyer, Sir Thomas Audley, to whom he afterwards gave up the seals[k].

From this period the chair was, by tacit consent, yielded to the gentlemen of the long robe, and held by them in succession (except in the solitary instance of Mr. Seymour) till after the Revolution, their knowledge of precedents and constitutional information being justly deemed most essential in asserting the privileges and maintaining the rights of the House[l].

[k] Parliaments and Councils of England.

[l] "Robert Brooke, recorder of and member for the city of London, elected speaker in the second year of Queen Mary, 1554, is the first instance of a speaker not a knight of the shire."—Oldfield's *Representative History*.

With professional precision, they introduced the custom of praying expressly for three things—access to the king, freedom of speech, and freedom from arrest[m]. Previously, their privileges had been enjoyed, except in periods of tumult and anarchy, without any specific claim or mention. Sir Thomas Hungerford proved his access to the king, 51 Edward III., by announcing that he had moved his majesty, then sick at Eltham, to pardon all such as were unjustly convicted in the last parliament. As soon as the privilege of access began to be sought in the way of petition, the crown took occasion to cavil at and curtail it.

"With regard to your first prayer for access," replied the lordly Elizabeth, "her highness is well contented that, in convenient time, and for convenient causes, in convenient place, and without importunity, as free access she granteth you, as any other hath had[n]." In the same reign, the Speaker Williams petitioned, with old-fashioned bluntness, "that the assembly of the Lower House may have frank and free liberties to speak their minds without any controlment, blame, grudge, menaces, or displeasure, according to the ancient form." It would have been well if the lawyers had not also imported from Westminster Hall formal apologies and tedious harangues. Elsynge notices this invention of prolixity, not reform. "The speaker's excuses at this day are merely formal, and out of modesty; anciently, they were both hearty and real, or else no excuse at all was made. We may gather from the parliament-rolls that anciently the speaker delivered nothing but what the House gave him in charge to speak; but, at this day, it is in the speaker's power to deliver in his speech what shall

[m] Elsynge and Prynne. [n] Sir Symonds D'Ewes' Journal.

best please himself. Anciently, the privileges of the Commons, though enjoyed, were never petitioned for by the speaker." In the courtly presence of Henry VIII., who dazzled his abashed Commons with the purple pomp and stately splendours of the field of the cloth of gold, the speaker first degraded the House by strains of servile flattery and eastern adulation.

Sir Thomas Inglefield, in presenting the money bills, contented himself with enlarging on[o] "the youthful monarch's promising valour, wonderful temperance, divine moderation in justice, and avowed desire of clemency." Richard Rich, the speaker in 1537, not to be outdone by his predecessor, compared the king "for justice and prudence to Solomon, for strength and fortitude to Samson, for beauty and comeliness to Absolom." This bad example infected, with contagious facility, the future race of speakers, who vied with each other alike in exaggerating the merits of the sovereign, and depreciating their own. Nothing could equal the height of their panegyric, or the depth of their humility, except its utter hollowness and falsehood. Some of the proceedings, as faithfully reported in D'Ewes, are very amusing. The Lord Keeper Bacon, 5 Elizabeth, thus harangues the Commons:

"My masters all, for that the Nether House, being so many together, must of necessity have one to be a mouth, aider, or instructor unto them, for the opening of matters, which is called the speaker, therefore go and assemble yourselves together and elect one, a discreet, wise, and learned man." The Commons returned with Mr. Williams, who, among divers authors of good laws, with rare pedantry enumerated

[o] Parliamentary History, vol. i.

to the queen; first, "Palestina, the queen, reigning before the deluge, who made laws as well concerning peace as war: second, Ceres, the queen, which made laws concerning evil-doers: and third, Marc, wife of Bathilacus, mother to Stillicus the king, who enacted laws for the maintenance of well-doers." This rhetoric was so well approved that, at the next parliament, Mr. Comptroller having proposed "*Mr.* Thomas Williams, *Esq.*," one of the fellows of the Inner Temple, the whole House, with one entire voice, cried "Mr. Williams, Mr. Williams!"

So little were the privileges of the House and its head settled and defined, even at this advanced period in parliamentary annals, that they seemed wholly at a loss how to proceed, *inopes concilii*, on any sudden emergency. The speaker, "Mr. Thomas Williams, Esq.," as he is throughout styled in the journals, to show peculiar respect, having died during his year of office[p], a committee was appointed to wait upon the Lords, to have their aid for the information of the casualty to her majesty, and to know her pleasure upon it. Her majesty's pleasure was, that the Commons should resort to their usual place, and choose a new speaker, after the accustomed manner, upon which her solicitor-general, Mr. Richard Onslow (ancestor to the famous speaker, Arthur Onslow), was proposed. As the queen's solicitor must necessarily attend on the House of Lords, his nomination gave such umbrage to the independent members, that they proceeded to a division against electing him, such an unprecedented course, as to be termed a dissevering of the House. The numbers are not recorded; but the queen's party of course prevailed[q].

[p] Parliamentary History, vol. i.

[q] Mr. Fulk Onslow was clerk of the crown, and elder brother to

The learned solicitor-general was both military and metaphorical in his excuses. "For that I would not be obstinate, I am forced to wound myself with their sword, which wound, being yet green and new, your majesty, being the perfect physician, may ease, in disallowing that which they have allowed. If the members for great carefulness would often inculcate it into my dull head to signify the same unto your highness, yet my memory is so slippery by nature and sickness, that I should likely lose it by the way." The Commons having set their hearts upon the queen's marriage, that politic princess evaded their uncivil importunity with courteous, but deceptive answers. In returning their thanks, the speaker drew a strange illustration from the Old Testament: "For that your highness inclineth your mind unto marriage, God grant us that, as your majesty hath defended the faith of Abraham, you may have his desire when he said 'Lord, what wilt thou give me when I go childless!'" It was agreed, upon the motion of this biblical speaker, that a prayer should be said every day by himself, such as he should deem fittest for the time.

The next speaker, Sir Richard Bell, did not resign his office on being appointed chief baron, but died before the ensuing session. Many supposed that his place of speaker was made void by this appointment, the chief baron being a necessary attendant on the upper house. As he was dead, the majority agreed to go to the Lords to make petition for their mediation to her majesty for license to choose a speaker, the place being vacant, first, by the making Sir. R. Bell lord chief baron, and, secondly, by his death.

Sir Richard. It is said, in the journals, that he was clerk sitting in his place at the table, at the time of his younger brother's election.

Though privy-councillors had been introduced into Parliament by Cardinal Wolsey, instead of the royal will being delivered by a message at the hand of a cabinet minister, the speaker still continued the direct organ of communication with the House. When a bill relating to rites and ceremonies in the church had been read three times, the speaker was commissioned to declare the queen's pleasure that, from henceforth, no bills concerning religion should be preferred or received, unless the same should be first considered and approved of by the clergy. The increased deference paid to their speaker is strongly marked in a resolution which the House adopted at this period. A motion was made, 1580, "That Mr. Speaker, and the residue of the House of the better sort of calling, would always, at the rising of the House, depart, and come forth in comely and civil manner for the reverence of the House, in turning about with a low courtesie, like as they do make at their coming into the House, and not so unseemly and rudely to thrust and throng out, as of late times hath been disorderly used;" which motion, made by Sir James Croft, Knight, was very well liked and allowed[r].

Passing over Mr. Wray, who treated the queen to a speech of two hours, and Sergeant Snagg, of unfortunate name, we come to the second greatest speaker in the long catalogue, Sir Edward Coke. This erudite lawyer, but pedantic and sorry rhetorician, could not of course resist the temptation of arraying himself in tropes and figures. "Although, as in the heavens," said the lawyer to Queen Elizabeth, "a star is but *opacum corpus* until it have received light from the sun, so stand I *corpus opacum* until your highness'

[r] Sir Symonds d'Ewes.

bright, shining wisdom hath looked upon me and allowed me. In this House are many grave, many learned, many deep, wise men, and those of ripe judgments; but I am untimely fruit, not yet ripe, but a bud scarcely blossomed, so as I fear me your majesty will say, amongst so many fair fruit ye have plucked a shaken leaf."

The following scene, some years later, most graphic in its description of the homely members and their modest head, is painted to the life[s]. Meeting to go through the form of choosing a speaker with all proper solemnity, "the comptroller of the household, 39 Elizabeth, Sir William Knolls, said, 'I will deliver my opinion unto you who is most fit for this place, being a member of this House, and those good abilities which I know to be in him' (here he made a little pause, *and the House hawked and spat*, and, after silence made, he proceeded). 'Unto this place of dignity and calling, in my opinion' (here he stayed a little) 'Mr. Sergeant Yelverton' (looking upon him) 'is the fittest man to be preferred' (after which words Mr. Yelverton blushed, and put off his hat, and after sat bareheaded), 'for I know him to be a man wise and learned, secret and circumspect, religious and faithful, no way disable, but every way able to supply this place.' He then sat down, hoping for a general consent.

"The whole House cried, 'Aye, aye, aye, let him be,' and the master comptroller made a low reverence and sat down; and, after a little pause and silence, Mr. Sergeant Yelverton rose, and, after a very humble reverence, said: 'Whence your unexpected choice of me to be your mouth, or speaker, should proceed, I

[s] Sir Symonds d'Ewes and Townsend.

am utterly ignorant. If from my merits, strange it were that so few deserts should purchase suddenly so great an honour. Nor from my ability doth this your choice proceed, for well known it is to a great number in this place now assembled, that my estate is nothing correspondent for the maintenance of this dignity; for my father dying left me a younger brother, and nothing to me but my bare annuity. Then growing to man's estate, and some small practice of the law, I took a wife, by whom I have had many children, the keeping of us all being a great impoverishment to my estate, and the daily living of us all nothing but my daily industry. Neither from my person nor nature doth this choice arise, for he that supplieth this place ought to be a man big and comely, stately and well spoken, his voice great, his courage majestical, his nature haughty, and his purse plentiful and heavy; but, contrarily, the stature of my body is small, myself not so well spoken, my voice low, my carriage lawyer-like and of the common fashion, my nature soft and bashful, my purse thin, light, and never yet plentiful.'"

It is pleasant to see any attempt made at checking this tone of fulsome insincerity. When, after the destruction of the Spanish Armada, the Speaker Crooke asserted that the peace of the kingdom had been defended by the mighty arm of their dread and sacred queen, the bluff Queen Bess instantly answered: "No; but by the mighty hand of God, Mr. Speaker!" Her majesty preferred a style of honest truth, the more especially when, at the time of using it, she could administer what she loved as well—a sharp rebuke. His harangue, on returning thanks to the queen for revoking her grants of monopolies, resembles the abject sycophancy of barbarian prostrations,

rather than the bold speech of the representative of freemen. "All of us, in all duty and thankfulness, do throw down ourselves at the feet of your majesty, do praise God and bless your majesty. Neither do we present our thanks in words of any outward thing, which can be no sufficient retribution for so great goodness, but, in all duty and thankfulness, prostrate at your feet, we present our most loyal and thankful hearts, even the last drop of blood in our hearts, and the last spirit of breath in our nostrils, to be poured out, to be breathed up, for your safety.' Then, after three low reverences made, he, with the rest kneeled down."

It is only thus, by making ourselves parties to the servile scene, and, as it were, witnessing the genuflexions which took place, that we can fully understand how inferior our ancestors were, both in habits and phrases of freedom, how erect their descendants stand in comparison, still, in the proud consciousness of independence, paying the fullest and most complete respect to royalty. Our distaste at these passages of degrading form is increased, when we find the same compliments continued to the pedantic James. The king's serjeant, Sir Edward Philips, the first speaker in his reign, poured forth the rich stores of euphuism in "full measure, and running over," upon the delighted prince.[1] "This great and important public service requireth to be managed by the absolute perfection of experience, the mother of prudence; by the profoundness of literature, the father of true judgment; and by the fullness and grace of nature's gifts, which are the beauty and ornament of arts and actions: from the virtues of all and every whereof I

[1] Parliamentary History, vol. i.

am so far estranged, that, not tasting of Parnassus's springs at all, nor of that honey left upon the lips of Plato and Pindarus by the bees, birds of the Muses: as I remain touched with the error of the contrary, and thereby am disabled to undergo the weight of so heavy a burthen, under which I do already groan, and shall both faint and fail, if not by your justice disburthened, or by your clemency commiserate."

Who could have divined from such inflated fustian that he was speaking in the age of Shakspeare and Raleigh, of Spenser and Bacon, though the reader might, perhaps, from their worst passages, have inferred the subjection of English literature to a king, who assured his faithful Commons: "That my integretye is like the whitnes of my roabe, my purety like the mettel of gold in my crowne, my firmness and clearnes like the presious stones I weare, and my affectyones naturalle like the rednes of my harte."

But the times were become too critical not to scatter these inanities. The hollow murmurs of discontent had begun to rise in sullen echoes through the House; the harsh vaunt of prerogative was answered by the cry of privilege; and the ceremonial speeches of the king, and chancellor, and speaker, drifted on, of as little worth, and prized as lightly, as sea-weed on the surging waters. An improved tone may be discerned in the discourse of the monarch, as if addressing an assembly of freemen, and in their spokesman a dawning consciousness that he knelt in the presence of a constitutional king. With what increased spirit and good sense does the Recorder of London, Sir Heneage Finch, address Charles I., when presented for speaker:[u] "Since we all stand for

[u] Parliamentary History, vol. ii.

hundreds and thousands, for figures and cyphers, as your majesty the supreme and sovereign auditor shall please to place and value us, and like coin to pass are made current by your royal stamp and impression only, I shall neither disable nor undervalue myself, but, with a faithful and cheerful heart, apply myself, with the best of my strength and abilities, to the performance of this weighty and public charge."

His successor, Serjeant Glanville, a man, according to Clarendon,[x] "very equal to the work, very well acquainted with the proceedings in parliament, of a quick conception, and of a ready and voluble expression," evinced his alacrity and firmness, when speaker elect, by chiding the quarter-waiter on his majesty, who came to summon the Commons to the House of Lords, commanding him to tell the gentleman-usher, that it was his duty to have brought the message himself, and that, but for detaining his majesty, the House would not have attended to a message brought by such a messenger. This assertion of the respect due to the House at so seasonable a time reflected great credit on the young speaker, who, in announcing the Commons' choice to Charles I., proved how well he understood the duties of the office: "Your Commons' House have chosen one of themselves to be the mouth, indeed the servant, of all the rest; to steer watchfully and prudently in all their weighty consultations and debates, to collect faithfully and readily the genuine sense of a numerous assembly, to propound the same seasonably, and to mould it into apt questions for final resolutions, and so represent them and their conclusions, their declarations and petitions upon all

[x] History of the Rebellion, vol. i.

urgent occasions, with truth, with right, with life, with lustre, and with full advantage to your most excellent majesty." He at once submitted, when his election had been confirmed, saying, with appropriate grace, "My profession hath taught me that, from the highest judge and highest seat of justice, there lyeth no writ of error, no appeal."

The parliament over which this distinguished orator presided was permitted to continue only one short month, and, when the next House of Commons met in November, 1640, the discontented party had accomplished their plans so effectually, that the person whom the king had selected for the post could not obtain a seat.[y] By a peculiar infelicity, he was constrained to nominate Mr. Lenthall, a disaffected barrister of Lincoln's Inn, whose memorable answer to the monarch, when, for the only time in our annals, he invaded the penetralia of the House, has conferred upon the utterer a species of fraudulent immortality. The question how far the speaker was the servant of the House, or of the king, had been discussed at an earlier period of the reign. Sir J. Elliot and four others had paid the penalties of a constructive riot, for detaining Sir John Finch in the chair by force whilst they read a factious resolution.[z]

As the speaker sometimes failed in asserting his independence, the House on their part appear to have been occasionally wanting in the respect due to their head. During the turbulent debates on privilege, which marked the close of the reign of James I., when the nominee of the crown was suspected of being an enemy in disguise, their anger exploded in a sort of tumultuous insurrection against authority. The notes

[y] Forster's Statesmen. [z] State Trials, vol. iii.

of the dialogue in fragments, which accompanied this outbreak, are exceedingly curious.

"March 9, 1621. Mr. Mallory will spare none, though they sit in chairs. Mr. Speaker came out of the chair without consent of the House:—Sir R. Phillipes admonisheth the speaker that sometimes he neglecteth his duty to the House in intricating or deferring the question: Mr. Nevyll must a little reflect upon Mr. Speaker, that he hath made plausible motions abortive: Sir H. Manners, 'Mr. Speaker is but a servant to the House, not a master, nor a master's mate:' Sir H. Withrington, 'Mr. Speaker is the fault of all their faults, by preventing them with rising:' Sir W. Herbert, 'he was required to sit still. He must respect the meanest, as well as those about the chair.' Sir Nathaniel,—'He may never rise out of the House at an inconvenient time, nor at the ordinary time, if the House oppose it without dividing it by question.'"

When, in obedience to the king's command, Sir John Finch quitted the chair, having previously refused to put the question, saying, with tears of abject humility, "I will not say I will not put the question, but I say I dare not," the next House of Commons very properly voted his conduct a breach of privilege. The language of Lenthall, inspired by his fears, when he refused to answer questions off-hand, was far more in accordance with their rights and his duty.

When the king had borrowed the speaker's chair, and asked him, as he stood below, whether any of the persons he sought were in the House, whether he saw any of them, and where they were, the moment in which Lenthall fell on his knees and faltered forth his apology was the proudest of his life—a spark struck

from rotten wood—the flash of spirit darting up from a life of meanness. His words have become aphoristic: "May it please your majesty, I have neither eyes to see nor tongue to speak in this place, but as the House is pleased to direct me, whose servant I am here; and humbly beg your majesty's pardon that I cannot give any other answer than this to what your majesty is pleased to demand of me." The king's retort, "I think my eyes as good as yours, but the birds are flown," could ill conceal his baffled displeasure. Yet Lenthall was in truth a poor creature, the tame instrument of a worse and more vulgar tyranny, the buffeted tool of the army and the rump; subdued to sit or go, to remain at home or return, to find the doors of St. Stephens shut or open, according to the will of his masters, the officers, and at the bidding of Cromwell.

His subserviency secured him, at a critical time, April 1642, when the forms and names of old officers seemed to carry weight with the people, a vote of £6000 as a voluntary gift, and the promise of a "further thankfulness." This timid time-server followed, instead of leading, the House during the civil war,[a] and more respect was paid to the clerk's stool than to the speaker's chair. Assuming the garb of sanctity, he pretended private business, to wit, preparing himself for the sacrament, when anxious to escape an inconvenient attendance during the usurpation. Obsequious to power in the ascendant, and forgetful of his memorable saying, he proved at Scot's trial his declaration in parliament, that "he would have his vote, as the king's judge, written on his grave."[b] The Restoration put an end to Lenthall's

[a] Whitelocke's Memorials—Hatsell. [b] State Trials.

full-blown hopes. Being excepted out of the act of pardon, he wrote to the speaker after the Restoration, to remove the misapprehension which prevailed as to his gains.[c] "The House ordered that I should have £5 of every compounder, but the order was shortly disannulled, so that what I received was inconsiderable. Before his late majesty's going from London, the House took into consideration my great and extraordinary charge and loss, and gave me by vote £6000, but I never to this day received the one half of it; besides which I never had gift of land or money, nor any part of that £5 per diem which is due to the speaker, as speaker, whilst he so continues."

Lenthall escaped with impunity, for his vice of compliance was mean and grovelling, when compared with the daring crimes of more aspiring spirits. He died in September 1662, apparently very penitent; but some of the contrition may be ascribed, no doubt, to his fears, and part to the zeal of his confessor. "My trouble is," he said, in his last sickness, "disobedience to the pater patriæ. I confess with Saul, I held their clothes whilst they murdered him; but herein I was not so criminal as Saul, for I never consented to his death. No excuse can be made for me, that I proposed the bloody question for trying the king; but I hoped, even then when I put the question, the very putting the question would have cleared him, because I believed there were four to one against it—Cromwell and his agents deceived me." They might, we fear, have retorted, "Qui vult decipi, decipiatur."

Under the military régime which the latter feverish days of the Commonwealth introduced, when "the

[c] Parliamentary History, vol. iv.

gentlemen in red" usurped the chief seats in the assembly, their speaker seems to have been treated with marked inattention and disrespect. The House divided on a clause, says Burton,[d] making void all other marriages; and, the number being equal, 69 to 69, the speaker stood up and reported, and said, "I am a yea—a no, I should say." This caused an alternate laughter all the House over, and some said "he was gone." On another occasion, when the speaker was roughly called upon to report, a member speaking too low for his disorderly audience to catch the drift of his argument, the Master of the Rolls interposed in defence of the chair. "Mr. Speaker is not bound in such cases to report. Every man is bound to speak so high as others may hear, and every man is also bound to attend to what is said." Mr. Speaker added submissively, "he was glad to hear that information, for gentlemen would talk so loudly to one another, that they could not hear another speak, and then called to him to report."

To shew his independence of forms, the turbulent demagogue, Sir A. Haslerig, turned from the chair in his address, though there was not even a reporter's gallery to face, and, when the House called upon him to speak to the chair, he said, "I am not bound to look you in the face, like children, to see 'if you have a penny in your forehead.' There was a great noise and horrid confusion. Mr. Young compared it to a cockpit; Dr. Clarges excepted against him as using unparliamentary language; Sir Arthur justified him. This confused noise held for an hour." The reporter, inured to such disorderly scenes, expresses his amazement, when a new speaker endeavoured to introduce

[d] Burton's Diary.

some degree of order, and tighten the lax bonds of discipline.[e] "The chair behaves himself like a Busby among so many schoolboys, and takes a little too much on him but grandly."

With the more courtly times of Charles II. ensued a partial improvement. The following strange dialogue between a petulant speaker and the old commonwealth soldier, Colonel Birch, shews, however, that much of the republican leaven remained.[f] The speaker taking notice of Colonel Birch changing his seat to another side of the House, Colonel Birch said, "I wonder the speaker should take notice of my changing sides, when I never took notice of the speaker changing the chair" (alluding to the speaker pretending to be sick, when the court, being displeased at him, put Sir R. Sawyer in the chair). Some time after the speaker told Colonel Birch that it was indecent for him to brush his beard without a looking-glass;" to which Birch replied, "You would not think it so if you had a beard to brush!" On another occasion, having to apologize, the speaker said, "he mistook only the forepart of the law about petitions for the latter, and he hopes his mistake will never cost the House so much as Birch's has done" (in something relating to a tax-bill). Colonel Birch retorted, "Whatever his mistake has cost the House, he is sure the marks were not upon the bags" (meaning that the speaker had lost money at play, and the king's marks were upon the bags he sent the money in, being the navy bags). The rebukes on his dissolute manners, addressed by the opposition members to that arrogant young rake, Mr. Edward Seymour, who then dictated his pleasure from the chair, would

[e] Burton's Diary. [f] Grey's Debates.

not be tolerated in our more refined days, the House being insulted in the insults offered to their head.[s]

"You expose the honour of the House," said Mr. Harbord, "in resorting to gaming-houses with foreigners, as well as Englishmen, and to ill places." "You are too big for that chair," added Sir Thomas Littleton, "for you, that are one of the governors of the world, to be our servant, is incongruous!" These instances are, however, marked exceptions to the rule, the House in general treating their chief with deférence and respect. Immediately on the return of Charles II., the habits of the old régime began to be revived. The members subsided into decorum, and the speaker relapsed into forms and ceremonies, some of which would have been "more honoured in the breach than the observance."

In the honeymoon of the Restoration, he stretched his throat to dulcet strains of sycophancy and obsequiousness. The crabbed old Presbyterian knight, Sir Harbottle Grimston, just absolved from the guilt of rebellion, harangued the king on "the monsters, who had been guilty of blood, precious blood, precious, royal blood, and declared 'we must needs be a happy Parliament, a healing Parliament, a reconciling and peace-making Parliament, a Parliament *propter excellentiam* that may truly be called *Parliamentissimum Parliamentum.*'" Well might the royal prodigal, who loved a more familiar style, have retorted "Rise up, old rebel, and speak in plain English like a man!" but he contented himself with ridiculing the vile rhetorician in private, and expressing his wants in the homely, good-natured, phrase, which went to the heart more nearly than whole sentences of tawdry

[s] Grey's Debates.

declamation, "and that which troubles me most is, to see so many of you come to see me at Whitehall, and to think you must go somewhere else to seek your dinner."[1]

The speaker's clumsy attempt at raillery to emulate the royal style was as ungraceful as a shuffling dance in fetters "that we might with some cheerfulness see your majesty's face, we have brought our brother Benjamin with us. I mean your act of oblivion. I take the boldness to call it yours, for so it is by many titles: your majesty first conceived it at Breda, you helped to contrive and form it here in England, and we must all bear you witness, you laboured, and travailled, till it was brought forth. And since it had a being, some question being made of its legitimacy, your royal heart is not at ease, until it is confirmed." Sir Harbottle was a better presbyter than rhetorician. When a bill was introduced in 1677 for changing the punishment of Romish Priests and Jesuits from death to imprisonment for life, he indignantly asked 'Is this the way to prevent Popery? We may as soon make a good fan out of a pig's tail, as a good bill out of this!"

There was as little sincerity in these state harangues as personal honour in the speaker. When Sir Edward Turner was appointed to the chair, strangers might have inferred the most boundless national prosperity, wealth, and greatness from his address. "If the affections of all Englishmen can make you happy, if the riches of this nation can make you great, if the strength of this warlike people can make you considerable at home and abroad, be assured you are the greatest monarch in the world: give me leave to double my words and say it again. I wish my voice could

[1] Wallace's History of England.

reach to Spain, and to the Indies too: You are the greatest monarch in the world!" Yet this was the period of the closing of the Exchequer—of the inglorious war with Holland—of the King of England sinking into a pensioner of France. Sir Edward Turner, himself convicted of receiving bribes from the East India Company, was translated from the chair to the chief seat in the Exchequer—integrity from bribes being deemed in that arcadian age superfluous on the judgment seat!

Sir Job Charlton, Sergeant, succeeded Sir Edward Turner, but only held his office eleven days, alleging indisposition as an excuse for resigning.[j] Some insinuated that the speaker was sick of his post. To purify the system with an infusion of fresh blood, by a happy innovation on the precedents of two centuries, a young country gentleman, the proudest of a haughty race, Mr. Edward Seymour, was voted into the chair. By his very haughtiness and pride he contributed to reduce a turbulent and unruly House into subjection, enforced respect to his office, and even against order controlled the factious members. At a critical moment, when the House was in committee, and in consequence of some dispute in telling a division, swords had been drawn, and blows struck, he resumed the chair of his own authority, contrary to rule, and instantly reduced the turbulent scene into exact discipline.[k]

When the House had ordered several lawyers into custody for pleading before the Lords, being forbidden by their resolutions, Mr. Seymour, in passing through Westminster Hall, directed the Mace to take Sergeant Pemberton instantly into custody. "He saw me," said

[j] Grey's Debates. [k] Hatsell.

the imperious speaker, "and paid me no respect, though I was near him, or very slightly."[1]

Mr. Seymour was not free from personal corruption, but scorned all petty bribes, and gave the fees due to the speaker on private bills to the poor of his parish (St. Giles). Always bearing in mind his descent from a Protector of the realm, that the Duke of Somerset was a member of his family, not he of the Duke's, when summoned to the Privy Council, he walked to the head of the room, and leaning over Charles, whispered too audibly, that he should not prevaricate with himself. Hardened in his pride by age, he treated William the Third with the airs of an equal, if not a superior, and, when dismissed from his place of comptroller of the household by Queen Anne, sent word that he should return his staff by the common carrier!

One instance of his hardihood in the exercise of the duties of speaker is highly to his credit. A message being brought that the king was seated on his throne, and his presence desired to hear the prorogation of Parliament, he refused to stir, till the Bill of Supply had been returned according to precedent from the House of Lords; and, though again warned that his Majesty was waiting, he declared he would be torn by wild horses sooner than quit the chair. The bill was brought, and the Commons advanced to the Bar of the Lords encouraged by the triumph of their Head. These matters of punctilious observance, however trifling in appearance, are far from insignificant, when considered as tests of the respect which must be paid, or the slight that may be offered with impunity, to a sensitive and jealous assembly.

[1] Grainger's Biographical History.

From a private pique, his re-election as speaker was opposed at court, and, though he abstained from offering any excuse, when presenting himself for the royal approbation, much to his own private rejoicing—for his was not 'the pride that apes humility'—the king peremptorily refused his assent, and compelled the hesitating Commons to make a fresh election. Among other articles of impeachment that were voted against Seymour, there was one for receiving exorbitant pensions as Speaker, £3000 a year as Treasurer of the Navy, and £3000 a year in addition from the secret service money, extravagant sums undoubtedly, and which argue corruption. At that period, the yearly salary of the Lord High Treasurer, the highest post in the realm, was but £8000; the President of the Council had £1500; the Secretary of State £1950; and the twelve judges £1000 each. In England public functionaries have never been overpaid. The regular income of the Speaker was only £5 a day, in addition to fees on private bills. His salary has been since regulated by Act of Parliament, and made more commensurate with the dignity and importance of his office, the state he must keep, and the household he is expected to maintain: £5000 a year forms his present liberal, but not munificent, allowance, over and above which, he is entitled to £1000 of equipment money, and 2000 ounces of plate immediately on his election, two hogsheads of claret, £100 a year for stationery, and the apanage of a handsome residence.

When Charles II. established his right to refuse, though he could no longer nominate, the speaker, the Commons' choice relapsed into the hands of practising lawyers, servile, or corrupt, of Serjeant Gregory, afterwards a puisne judge, and the butt of Jeffries' buffoon-

eries—of Sir Robert Sawyer, and of Sir William Williams, who was denied the protection of privilege, and paid the penalty of the violence exhibited by Charles' last Parliament, in a fine of £10,000, a large portion of which, £8,000, he actually paid for licensing the publication of Dangerfield's criminatory report.[m] It was fortunate for the dissolved Parliament that the rapacity and vindictiveness of the royal brothers did not fasten on each individual member. For, if their speaker was liable, who acted but by the commands of others, and as their minister, how much more would all those have been liable by whose command he acted?

The degenerate line of legal speakers closed with Sir John Trevor, an apt and fitting head to the ignoble House of Commons that was packed by king James, only forty of whom were not to his liking—in other words, proper instruments of tyranny. Masculine in bearing, he read to the king with marked emphasis, as if he had felt the force of the passage, the closing sentence of an animated resolution, that "they trusted to the king's word for the safety of the Church of England, which was dearer to them than their lives." Corrupt as adroit, he disgraced for a few years the choice of William the Third, and sullied what would else have been during his reign a comparatively pure and honourable succession of speakers.

With the Revolution commenced the real importance of the speaker, in rank, in character, and consideration. "*Jam domiti ut pareant non ut serviant.*" From that auspicious era, he has occupied his proper station at the head of English gentlemen. Ever since the statute 1 William and Mary c. 21,

[m] C. W. Wynn's note to the State Trials.

he has constantly taken place next to Peers of Great Britain, at all times, both in and out of Parliament. In all public commissions he is so ranked, and has the precedence at the Council Table, as a privy councillor. Though on common occasions the speaker gives place to Irish peers, and those, who by courtesy take rank before some peers of the realm, as sons of dukes and marquises, yet in all commissions by act of parliament, he is named before them, and so ought to be on all solemn and national occasions.[n] In the commission for the union of England and Scotland, Mr. Smith, the speaker, was named immediately after the peers who were in the commission, and before the Marquises of Hartington and Granby, and signed the treaty before them, next after Lord Somers, the junior baron, and the first of the Commoners. In 1694 it was ordered that in the procession at Queen Mary's funeral, no person do intervene between the speaker and the House of Lords. To secure his perfect independence, and to silence all imputations of leaning to the ministry of the day, he ceased, in George the Third's reign, to hold any of office of profit under the crown; the great Arthur Onslow setting that excellent example to which his successors have invariably adhered. His impartiality and acquaintance with precedents have been insured by a fixed tenure of office, and his arduous duties justly rewarded, at the close of long service, with a coronet.

[n] Hatsell's Precedents.

CHAPTER II.

We know no higher distinction for a commoner, than to have been the first man in the Convention Parliament. Upon Mr. Henry Powle, then member for Cirencester, was conferred the special honour of being unanimously chosen speaker, greatly to the mortification of the haughty Sir Edward Seymour, who had previously filled the chair with marked ability, and had hoped by his joining the Prince of Orange at Exeter and an ardent display of converted loyalty, to earn again the place, which his pride most coveted, of the foremost gentleman of England. But Mr. Powle produced better credentials, in his abilities as a lawyer, and the fidelity with which he had always espoused the cause of the liberal, and then dominant, party. Sir Edward was a bitter tory, whilst his successful rival had ranked for many years among the chosen leaders of the whigs.

Bishop Burnet portraying the characters of some of the principal members of the parliament of 1675, says in his homely style[a], "Littleton and Powle were

[a] Burnet's Memoirs, vol. ii.

the men that laid the matters of the House with the greatest dexterity and care. Powle was very learned in precedents and parliamentary journals, which goes a great way in their debates, and, when he had time to prepare himself, he was a clear and strong speaker." His course in the parliament of Charles the Second had been full of turbulence and peril, but conspicuous for many honourable passages of consistent magnanimity, and his energy as a debater the opposition or country party proved upon several remarkable occasions. Even through the mutilated parliamentary reports, which give the reader far less notion of the force and beauty of former eloquence than the fragments of the Elgin marbles present to the eye an idea of ancient symmetry, traces of the orator are still visible. "I will not invade prerogative, neither will I consent to the infringement of the least liberty of my country,[b]" was the memorable saying in which he sought to designate his parliamentary policy, nor can it be denied that to the last branch of the alternative he did most rigidly adhere.

When Charles in 1672 issued a second declaration of indulgence, expressing his positive will and pleasure to suspend all penal laws in matters ecclesiastical, and assured the House on their meeting, in his speech from the throne, "that he should stick to his declaration," the House discussed that part of the royal speech in a tumult of displeasure; Powle said the declaration would suspend at once forty acts of parliament, and was in fact only a paper order under no seal. An address was voted that penal statutes in matters ecclesiastical cannot be suspended but by act

[b] Grainger's Biography, Art. Powle.

of parliament, and that an address and petition for satisfaction should be presented to the king. He re-asserted his prerogative. A second address was then drawn up by Powle, "to clear the apprehensions that may justly remain in the minds of your people by your majesty having claimed a power to suspend penal statutes in matters ecclesiastical, which your majesty does still seem to assert to be inherent in the Crown, where we humbly conceive your majesty hath been very much misinformed. We do therefore, with an unanimous consent, become again most humble suitors to your most sacred majesty, that you would be pleased to give us a full and satisfactory answer to our petition."

The king, perplexed at this proof of contumacy, appealed in person to the Lords on the propriety of such an address. Lord Clifford termed it "monstrum, horrendum, ingens," and the Lords voted that his answer was sufficient. But Charles, irresolute, and fearful of his father's fate, should he commence open hostilities against the refractory Commons, yielded, notwithstanding his pledged word, and with his own hand in council cancelled the declaration.

In another contest between the speaker and the crown, this energetic leader of opposition was less successful. Charles, indignant at an address which dictated an alliance with Holland, commanded the House to attend him presently in the Banqueting House at Whitehall. Some members rising from their seats, and going to the door before the speaker had reported the king's command, Mr. Seymour reprimanded them[c]: "The burgesses of Newcastle and Leicester are in great haste to be gone before the

[c] Grey's Debates

king's message is reported, as if they went to get places at a show or a play."

The king spoke very sharply; told the Commons that by their address they were invading his fundamental power of making war and peace, and that, if he yielded to the dictation of parliament, he should only think himself the empty sound of a king. "I would have you return to your House, and I require that you immediately adjourn." When they had returned to their own House, where the speaker reported the king's speech, Mr. Powle stood up, but the speaker interrupted him. "I must hear no man speak, now the king's pleasure of adjourning the House is signified." Mr. Powle persisting in his determination to be heard, Mr. Seymour suddenly sprang out of the chair; some cried, "Stop the mace upon the table." Others would have put him again into the chair, or somebody else. But the speaker was soon surrounded by several of his party, and the mace secured, and he went away with it before him, but not without reproachful speeches[d].

At the commencement of the next session the speaker was severely chidden for undertaking to be bigger than the House, and, upon his own authority, subverting their known rights. In the king's speech, Mr. Powle contendedthat his majesty directed himself to the gentlemen of the House, and not to Mr. Speaker. "How has the speaker then the authority of adjourning the House? I never yet saw a pocket order of adjourning the House admitted. It may be doubted whether this power is in the crown. I take the Lords' House and the Commons to be but one court in judgment of law, and that is the High Court of Parliament.

[d] Grey's Debates.

must follow, then, the king must adjourn the whole court. If the king should adjourn the Commons, and leave the Lords sitting, it would breed confusion. But, if the power of adjournment be not in the crown, it cannot be in the chair. The speaker is called the mouth and tongue of the House, which speaks the conceptions of the mind. Not that he is to make those conceptions, but pronounce what he has in command from the House. Lenthall, upon an occasion known to most, told the late king "he had neither tongue, eyes, nor ears, but what the House gave him."

But, though other members of opposition supported his views, Sir Thomas Clarges complaining of Seymour's *pattering* out of the chair with such extreme precipitancy, and Mr. Waller reminding him "that he was entirely in potestate senatûs," no vote was adventured upon his conduct. After calm reflection, it was admitted that the speaker had acted with due respect to the prerogative, as well as regard to their own privileges, in permitting no debate, when the king's pleasure that they should adjourn themselves had been once announced[e].

In the following year, Mr. Powle was hurried along by the whirl of political intrigue, in which those factious times revolved, to support the re-election to the chair of the man who had treated him so cavalierly, but with no real, though seeming, inconsistency, as the struggle still lay for precedence between the Commons and the king. When Mr. Seymour went up to the Lords for his majesty's approval, he declared that he had been chosen by the unanimous vote of the House, but omitted the usual formal plea of modesty,

[e] Hatsell.

desiring to be excused, a prayer which it was suspected, from the lord treasurer's enmity to Seymour, the chancellor would cheerfully grant.

"I am come hither," said the haughty commoner, in a tone of arrogance till then unknown, "for your majesty's approbation, which, if your majesty please to grant, I shall do the Commons and you the best service I can." However disconcerted by this novel boldness, the royal purpose was too firmly fixed to be thus eluded.

"The approbation," said the chancellor, after an embarrassed pause, "which is given by his majesty to the choice of a speaker, would not be thought such a favour as it is, and ought to be received, if his majesty were not at liberty to deny as well as to grant it. It is an essential prerogative of the king to refuse as well as approve of a speaker. The king is the best judge of men and things. He knows when and where to employ. He thinks fit to reserve you for other service, and to ease you of this. It is his majesty's pleasure to discharge this choice, and accordingly, by his majesty's command, I do discharge you of this place you are chosen for, and in his majesty's name command the House of Commons to make another choice, and command them to attend here to-morrow, at eleven o'clock[f]."

The members withdrew from the royal presence in a fever of resentment at this contumelious treatment of their head, nor did any fan the flame with more zeal than Mr. Powle. "I have ever," he said, "taken the record to be, that no man was ever refused being speaker, when presented to the king, but for some disability of body, as in Sir John Popham's case, who

[f] Parliamentary History, vol. iv.

desired to be excused from that service by reason of disability of body from wounds he had received in the wars (28th Henry VI.); and lately Sir Job Charlton, not being able to endure the employment, by reason of disability of body. But nothing of this can be objected against Mr. Seymour; must any private person inform the king of his unfitness without any cause assigned? I know not what may come of it. I do protest before God, that I think the greatness of the nation is under the privileges of this House. A people can never heartily support the government that does not protect them. A slavish people can never heartily support the government. Those that come after us here, if we are dissolved upon this point, will speak the same language. I fear not dissolution."

The debate having been adjourned to the next day, Mr. Powle moved that an application should be made to the king, that the matter delivered by the lord chancellor yesterday was of such great importance relating to the speaker, that we desire some time to consider of it. An address to this effect was presented, and his majesty consented to a further time, suggesting that, as he would not have his prerogative encroached upon, nor encroach on the privileges of the Commons, a third person might be found out as an expedient. Serjeant Streete after this named Mr. Powle himself as speaker, but he was not suffered to proceed, as it might seem a waiver of their rights. A further resolution was voted, which Mr. Powle, as ringleader of his stubborn parliament, read to the king, who made, on the instant, a short and severe reply. "Gentlemen, all this is but loss of time; therefore, I command you to go back to your House, and do as I directed you." A prorogation of two days was

ordered, and Mr. Seymour required to absent himself, to which evasion that trafficking courtier readily assented. When the House resumed its sittings, though a few of the opposition leaders appeared to be still undaunted, saying that they had had rougher answers than that, the majority remarked, in the quaint phraseology of the day, that in Seymour's absence it was only playing French cockles, and, by virtue of a secret compromise, elected Serjeant Gregory, a choice which was immediately ratified by the king.

Burnet is mistaken in stating, as the result of this contest[g], that the unconditional choice of a speaker was tacitly surrendered to the Commons. All that was, in fact, conceded, appears to have been the barren trophy, that the speaker might be named by one who was not a privy councillor[h].

From these fierce and constantly recurring contests with the court, Powle found himself suddenly translated into a high place of trust. After the dismissal of Lord Danby, Charles had consulted Sir William Temple upon the best method of forming a government. That theoretical statesman recommended a new privy council, to consist of thirty members, one half of whom should be selected by the king from the officers of his court, and the other chosen by the king's leading antagonists in both houses[i]. Wealth was to be an essential qualification; that these thirty councillors should command £300,000 in case of exigency, no brilliant amount of money, even if quadrupled to meet the present standard of value. The needy monarch caught at the scheme, and made

[g] Memoirs, vol. ii. [h] Speaker Onslow, quoted by Hatsell.
[i] Courtenay's Life of Sir W. Temple.

Lord Shaftesbury president, still more to propitiate the opposition. Only five commoners did this aristocratic estate permit to enter their number,—Lords Russell and Cavendish, Sir Henry Capel, Seymour, and Powle. The malcontents, though thus suddenly heaved into power, as if by some violent convulsion, brought with them the elements of dissolution. They could not cordially coalesce with the other members, were not confided in, and bore the responsibility of measures in which they had not been consulted. Still more annoying was the loss of their credit with the people,—the popularity of the patriot beginning to wane, as soon as he was detected within the precincts of the palace. "So true is it," says Sir John Reresby, when mentioning the fact, "that there is no wearing the court and country livery together[k]."

At length, when parliament had been prorogued, without any previous intimation to the council, the opposition members repaired to court in a body, and solicited to be excused from further attendance, as they despaired of being able to serve him. The king instantly replied, more sincerely than courteously, "With all my heart!" The vernal promise and equinoctial disappointment were complete. Relapsing into vehement opposition, Powle and his allies agitated petitions from all quarters for the meeting of parliament, and presented the Duke of York to a Middlesex grand jury, by a master-stroke of Shaftesbury's daring genius, as a popish recusant. Chief Justice Scroggs discharged the grand jury before they could make this presentment, and rebuked them sharply for drawing up a petition that parliament might soon meet. To

[k] Sir J. Reresby's Memoirs.

aggravate his iniquities in the eyes of the opposition, he had been active in expressing abhorrence of this tumultuary petitioning.

Immediately on the meeting of parliament, Powle arraigned his conduct in a speech full of vindictive energy and of rhetoric bordering on bombast. But great allowance should be made for the bad taste of the reporter[1]. "The two great pillars of the government are parliaments and juries: it is this gives us the title of free-born Englishmen, for my notion of free Englishmen is this, that they are ruled by laws of their own making, and tried by men of the same condition as themselves. The two great and undoubted privileges of the people have been lately invaded by the judges that now sit in Westminster Hall: they have espoused proclamations against law; they have discountenanced and opposed several legal acts that tended to the sitting of this House; they have grasped the legislative power into their own hands, as in the instance of printing (that printing of news might be prohibited by law); they have discharged grand juries on purpose to quell their presentments and shelter great criminals from justice; and, when juries have presented their opinion for the sitting of this House, they have in disdain thrown them at their feet, and told them they would be no messengers to carry such petitions, and yet, in a few days after, have encouraged all who would spit their venom against the government; they have served an ignorant and arbitrary faction, and been the messengers of abhorrences to the king. What we have now to do is to load them with shame who bade defiance to the law; they are guilty of crimes against nature, against the king,

[1] Grey's Debates.

against their knowledge, and against posterity. The whole frame of nature doth loudly and daily petition to God their Creator, and kings, like God, may be addressed in like manner, by petition not command. The judges likewise knew it was lawful to petition: ignorance can be no plea, and their knowledge aggravates their crimes; the children unborn are bound to curse such proceedings, for it was not petitioning but parliaments they abhorred. The atheist pleads against a God, not that he disbelieves a Deity, but would have it so. Tresilian and Belknap were judges too; their learning gave them honour, but their villanies made their exit by a rope! The end of my motion therefore is, that we may address warmly our prince against them; let us settle a committee to inquire into their crimes, and not fail of doing justice upon those that have prevented it; let us purge the fountain, and the streams will issue pure."

At the conclusion of this animated speech, it was resolved, "That the discharging of a grand jury by any judge, before the end of the term assizes, or sessions, while matters are under consideration and not presented, is arbitrary, illegal, destructive to public justice, a manifest violation of his oath, and is a means to subvert the fundamental laws of this kingdom." The chief justice escaped by an opportune dissolution the consequences of an impeachment.

In the frenzied horror of the Popish Plot which covered the nation as with a lurid cloud, overshadowing the judgments and darkening the hearts of Englishmen, Powle, with the other leading patriots, strayed widely from the path of political rectitude. Evelyn speaks of his summing up the articles of impeachment in a vehement oration against the Earl of Stafford,

murdered under forms of law, though the evidence of Oates, as the good old man wisely and humanely says[m], "ought not to have been taken against the life of a dog!" Mr. Powle, in a similar fanatical spirit, passed the watchword of "No Popery" on the slight circumstance of some troops being required, according to the strict rule of military discipline, to pay a mark of respect to the established religion of the place where they were stationed: "I hear a strange rule, that our forces beyond sea must stand uncovered at the Host passing by in their processions. I would be secured from those forces bringing in popery!"

This zealous Protestant champion not only shared with the country party their anti-papistical alarms, but is liable to the reproach, with which nearly all were tainted, of receiving pay and pension from France. On terms of intimacy with Barillon, the celebrated ambassador of Louis, who describes Powle as "a man fit to fill one of the first posts in England, very eloquent, and very able," he stooped to accept his master's bounty, and is put down in that black list, among the first class of pensioners: "A sieur Powle 500 guinées[n]." Lord William Russell was alone unbribed, and his able descendant, the historian Lord John Russell, has insinuated doubts more specious than solid, of that high-minded nobleman's colleagues being alike free from gifts[o]. "Powle, Littleton, Harbord, Hampden, Titus, William Harbord, are put down for 500 guineas; Sacheverell, Foley, 300; Algernon Sydney 500. But it is remarkable, that, of the twenty persons mentioned, not above half were in parliament, and almost all of those were leaders. Now, if any one

[m] Evelyn's Diary, vol. i. [n] Appendix to Dalrymple.
[o] Lord John Russell's Life of Lord William Russell.

or two obtained money from Barillon for persons to whom they did not distribute it, or if Barillon himself embezzled the money, the names, which would naturally appear in his list, would be those of the speakers who had the greatest reputation. But, if the transactions were real, it is much more probable that he should have been able to buy the lower and more obscure members than those whose fame stood highest for ability and integrity." The purchase would have been easier assuredly, but would have been scarcely worth the clever Frenchman's notice.

We learn from Madame de Sévigné, that Barillon enriched himself by his mission to England, "Cette année il mangera cinquante mille francs[p];" and that the perfect accuracy of his accounts may be questioned where there was no check against peculation. In the present instance, however, there were both checks and vouchers. To confirm his foul impeachment of fair and honourable names, we must admit the generality of the suspicion that French louis d'ors were tinkling in the House of Commons, and the certainty that even detection in venal practices did not, in that degenerate age, entail the disgrace with which the very rumour would overwhelm a modern statesman. Our notions of political honour and integrity would have been deemed prudery in the days of the laughing Charles and Louis le Grand. The memoirs of contemporaries corroborate the revelations of M'Pherson and Dalrymple, and leave a stain on his countrymen which the English historian would fain remove, at any cost but that of truth. Upon the evidence it is impossible to return a verdict of acquittal, and not proven is more than, as an honest chronicler, he can safely record.

[p] Sévigné's Letters to her Daughter.

When the band of patriots had been overthrown by their own violence, and parliaments were discontinued during the dark and evil latter days of Charles and the undisguised despotism of James II., Mr. Powle appears to have sought shelter in the courts of law, though he had not been regularly educated to the bar, and in the calm pursuits of science. We learn from the following curious letter to Sir Christopher Wren[q], that he had been from the first a member of the Royal Society, but we have no other memorial of his taking an active part in their proceedings.

"*To Sir C. Wren, at All-Soul's College, in Oxford.*

"Sir,—I am commanded by the Royal Society to acquaint you, that his majesty expects you should prosecute your design of making the representation of the lunar globe in solido, and that you should proceed in drawing the shapes of little animals, as they appear in the microscope, and that he doth expect an account of this from you shortly.

"I am, Sir, &c.

"HENRY POWLE."

In observance of the king's command, we are told the globe of the moon in solid work was accurately finished, and presented to his majesty at Whitehall, fixed on a pedestal of lignum vitæ, and placed by the king among the curiosities of his cabinet.

The advance of the Prince of Orange upon London recalled the whig leader to his political sphere of duty. Lord Clarendon's diary affords a glimpse of the eagerness with which the contending factions sought an audience of the invader, and of the marked difference

[q] Life of Sir Christopher Wren, by his Son.

displayed in the reception of their overtures[r]. "December 16th. Sir Robert Howard and Mr. Powle came together to Windsor, and were a long time in private with the prince. Colonel Titus and Sir William Williams were there likewise, but could not be admitted to the prince."

When all the old parliament men who had sat in the House during the reign of Charles II., together with the lord mayor, aldermen, and sixty common-councilmen of the city of the London[s], by way of corinthian capital to a composite base, were convened at St. James's, Mr. Powle attended the summons at the head of one hundred and sixty members. Upon their return to Westminster, to consider the best method of calling a free parliament, he was chosen chairman, and solved the grave doubt then first started, what authority they had to assemble, by the short answer, "that the request of the prince was a sufficient warrant." The next morning he read their address to his highness, requesting that he would assume the administration of public affairs, and that letters should be issued to summon a convention. Returned for Windsor, with his old correspondent, Sir Christopher Wren, as a colleague, he was voted by a unanimous call to the chair, the 22nd January, 1688-9, and thus attained the highest station to which a statesman could aspire,—speaker of the Convention Parliament. His formal excuse of inability was overruled by the House, and, the throne being vacant, the ceremony of presenting him for approval was omitted[t]. His election to the chair forms the second instance, in which neither the form of having the royal permission to

[r] Lord Clarendon's Diary, vol. ii.
[s] Ward's Essay on the Revolution. [t] Hatsell.

proceed to the election of a speaker, nor the still more important form of the king's approbation of the person elected, was observed.

The first violation of the royal prerogative had arisen in this instance from absolute necessity, in April 1660, when the Convention Parliament, which met at the Restoration, voted Sir Harbottle Grimston speaker. In lieu of a speech from the throne, Mr. Powle read a letter from the prince, and the House proceeded to business as quietly as if all their solemn rites had been duly performed. It would have been quitting the substance for the shadow had they aimed at more. Of the eloquence and effective energy with which the speaker seconded the prince's wishes for war with France, a striking illustration is given in Ralph[a].

"Mr. Powle opened the diet with an harangue on the dangerous state of the nation, the fatal consequences of anarchy, the deplorable condition of the Protestants of Ireland, the dreadful consequences to England of the loss of that kingdom, the growth of the power of France, the insatiable ambition of the most Christian king, his sworn enmity to the Protestant religion and the interests of England; the necessity of putting the nation in such a posture as might not only secure it from any affront, but enable it to subdue France a second time, or at least secure the provinces of Normandy and Aquitaine, which were the inheritance of our kings; and whatever else had a tendency to convince or persuade his audience that their all depended on the Prince of Orange; and with such great success did he play the orator on this occasion, that the House rang with applause, and in a

[a] Ralph's History of England.

sort of transport all was agreed to that was proposed either for his highness' honour or his interests."

A speech that was hailed with such enthusiasm could not deserve Bolingbroke's contemptuous mention[w]. "There is a humdrum speech of a speaker, I think, who humbly desired his majesty to take this opportunity of reconquering his ancient Duchy of Aquitaine. We were soon awakened from these gaudy dreams!" There might be Quixotry in the orator's visions of conquest; but his object was to infuse a martial spirit into a doubtful and hesitating audience, and their shouts attested the triumph of his art, 'how well he could persuade!' It was a proud day for himself and his country, that 13th day of February, 1688-9, when he stood at the head of the assembled Commons on the left side of the Banqueting House, the Marquis of Halifax, speaker of the Lords, with the Peers, on the right, and heard the declaration of rights asserted previously to the tender of the crown. In the magnificent procession that paraded through the streets of London to proclaim William and Mary, the speaker in his carriage took precedence of the Duke of Norfolk, earl marshal, and the other nobles.

He was with seven other Commoners summoned to his first privy-council by the new king, and, on the admirable remodelling of the bench of judges, at the time that Holt was appointed chief-justice of the King's Bench, and Sir Robert Atkyns chief-baron, received his patent as master of the rolls. This office, the third station of rank in the law, had been held by several of his predecessors in the chair, Lenthall,

[w] Bolingbroke's Letter to Sir W. Wyndham.

Sir Harbottle Grimston, and others, and at a period when business pressed with lighter weight on both courts, when sessions were short and equity arrears slight, seemed well adapted to be held, as it were *in commendam*, by the first commoner of England. Independently of this additional income, the stipend of the speaker, though reformed on a liberal scale, would have been scarcely sufficient to maintain his high station. Mr. Powle received £1,000 for the first session of Parliament, an outfit of plate, and perquisites amounting to £5 on every private bill. There was sound policy in accumulating the favours of the crown upon one who could play the part of loyal courtier or zealous patriot with equal facility, and on whose private counsels the king implicitly relied for the answers he should publicly return to the addresses of the House. Thus, when the Commons had voted a deputation and a monthly assessment of £420,000, King William, we are told, deferred receiving them until, in concert with the speaker, he had prepared a suitable reply. And when any memorable state occasion required it, his eloquence appeared equal to the greatness of the exigency, worthy of a place in the journals. His congratulatory oration to their majesties on the coronation, concluded with a felicitous and graceful allusion to the reign, in which parliaments met[x].

"May the lustre of both your names so far outshine the glory of your predecessors, that the memory of their greatest actions may be forgotten, and your people no longer date the establishment of their laws and liberties from St. Edward's days, but from the

[x] Journals of the Commons, vol. x.

most auspicious reign of King William and Queen Mary."

Upon an event equally memorable—presenting the Bill of Rights—the speaker prefaced his offer of the statute for his majesty's gracious acceptance with some well-chosen and judicious sentences. "They have agreed upon a bill for declaring of their rights and liberties, which were so notoriously violated in the late reign, humbly desiring your majesty to give life to it by the royal assent, that so it may remain, not only as a security to them from the like attempts hereafter, but be a lasting monument to all posterity of what they owe to your majesty for their deliverance."

An address less pleasing to his ungracious royal master, but listened to with delight by his brother Englishmen, was delivered by Mr. Powle, at the close of the session of 1689. The phrase of conquest had been industriously whispered, a prelate had preached upon King William and Queen Mary Conquerors, and there seemed to prevail an overweening sense of the service rendered within the precincts of the court. To lessen this conceit, the speaker introduced an historical reminiscence[y]. "It is little more than an age since the most illustrious Prince of Orange, your majesty's great-grandfather, whose name will ever be famous for his love to his country, did, by the assistance of the English, redeem those provinces from the like oppressions, which shews how inseparable the interests of these two nations are; and, since it was the fatal policy of those that laboured our destruction to endeavour to divide us, it ought to be the endea-

[y] Ralph's History.

vours of all true lovers of their countries to keep us firmly united, in order to our preservation."

Mr. Powle displayed equal tact and discretion on still more trying occasions. When James II. wrote to him a letter to present to the House, replete with appeals to their loyalty and feelings, the speaker relieved the country from danger by refusing to open the document. It was confessed by his rival, Sir Edward Seymour, that he kept order excellently well, and escaped censure in the single instance in which the privileges of the House appeared to be invaded, the apprehension of Lord Danby on a charge of treason[z]. His staff of office was broken at the dissolution of the parliament in 1690. A more unscrupulous partizan was required to propitiate in the chair a corrupt and factious majority. Sir John Trevor,—whom he had supplanted at the rolls, the apt speaker of James II.'s solitary House of Commons,—succeeded, and even the seat of the discarded whig was wrested from him on petition. Notoriously partial as election committees then were, they decided that the majority of legal votes had been given in his favour; but their decision was reversed by the House, who, whilst they excluded their late head from a seat, paid him the tribute of dread, and proved in their iniquity how much they feared him.

Mr. Powle retired to the rolls, and maintained the independence of the office by refusing to attend the Lords at their pleasure, asserting that he was an assistant to, but not an attendant upon, the House. He died in November, 1692, and was interred in the village church of Quenington, in Gloucestershire,

[z] Parliamentary History, vol. v.

where he was lord of the manor. Upon a flat stone, within the communion rails, is inscribed the following too flattering memorial:—

"Here lyeth the body of the Right Honorable Henry Powle, Esq., Master of the Rolls, one of the Judges Delegates of the Admiralty, and of his Majesty's most Honorable Privy Council, who departed this life 21st of November, 1692, æt: 63.

"Regi et regno fidelissimus,
"Æqui rectique arbiter integerrimus,
"Pius, probus, temperans, prudens,
"Virtutum omnium
"Exemplar magnum[a]."

By his wife Elizabeth, who died long before her husband, July 1672, a daughter of Lord Newport, he had an only child and heiress, Catherine, married to Henry Ireton; through whom he derived the manor of Williamstrop.

His successor, "a bold, bad man[b]," was descended from an ancient family in North Wales, which traced its origin to Tudor Trevor, Earl of Hereford, but was reduced to indigence. That wicked gossip, Roger North, gives a curious history of his early rise:[c] "He was bred a sort of clerk in old Arthur Trevor's chambers, an eminent and worthy professor of the law in the Inner Temple. A gentleman that visited Mr. Arthur Trevor, at his going out, observed a strange-looking boy in his clerk's seat (for no person ever had a worse sort of squint than he had), and asked who that youth was: 'A kinsman of mine,' said Arthur Trevor, 'that I have allowed to sit here to learn the knavish part of the law!' This John Trevor grew up, and took in with the gamesters, among whom he was a great pro-

[a] Nash's and Sir R. Atkyns' Gloucestershire.
[b] Evelyn. [c] North's Life of Chief Justice North.

ficient, and, being well grounded in the law, proved a critic in resolving gaming cases and doubts, and had the authority of a judge amongst them, and his sentence for the most part carried the cause."

But he had the countenance of a more fortunate gambler in the law than even these worthy associates, the execrable Jeffries, his first cousin, and former lover of his second wife. Trevor was patronized by that lucky lawyer, who displayed gleams of good-nature amid ferocious cruelties, and shared in his rapid ascent. Smuggled into the Parliament of Charles II., in 1677, as a retainer of the court, he lost no time in betraying his servile allegiance: "'Tis the king's prerogative to make peace or war; 'tis he that makes it, and he that breaks it. The disciples came to our Saviour in the ship, and said, 'Lord, save us or we perish,' and we can say no more to the king[d]."

The fawning and profane courtier could, however, assume a tone of patriotic virtue when the public mind was frenzied with the terrors of a popish plot, and declaim boldly against the queen, without, of course, the most distant suspicion that the royal voluptuary might not be loath to put her away. "I would satisfy the loyal subjects of England, and pass a vote in plain English, to make an address to the king, that the queen and her family, together with all reputed or suspected papists, may be removed from Whitehall." The vote was passed by acclamation, but not carried into effect, for the king had more humanity than his "goodman burgess." The convenient conscience of this hireling politician was not troubled with a doubt on the guilt of Lord Stafford, and he clamoured for that legal murder in language

[d] Grey's Debates.

as choice as the sentiment was pure. "Upon the evidence, I am satisfied clearly that this Lord Stafford is guilty, and so *I would make no manner of bones* to demand judgment. I would have no more delay, but go up and demand judgment."

When the vengeance of the vindictive Commons pursued a more worthy victim, and the House debated on an address to the king to remove Sir George Jeffries out of all public offices for his abhorrence of petitions, his cousin pleaded earnestly in his behalf, artfully extolling the merits of the judge, and palliating his immoralities as a man. "I take it, he stands fair as to his carriage relating to the libel and the rape. This gentleman has been Recorder of London many years, and it is a place of great authority, and it is his happiness that there is no evidence against him that he ever packed a jury, or has gone about to clear a person innocent. He has been counsel for the king when persons were indicted for the horrid plot, and behaved himself worthily, and, if I may say so, he was too forward in prosecuting; if so, that may make some atonement for his forwardness in other matters. I hope in some measure you will take pity of him."

The House was deaf to his pathos, and Jeffries, faint-hearted when exposed to danger, however prone to tyrannize over others, resigned his appointment, incurred the scorn of the king, who would sneer at his bullying judge, "as not parliament-proof,"[e] and on his knees at the bar cowered before the severe rebuke of the speaker. During the sanguinary campaign of that determined butcher in the west, Lord Keeper North, and Sir John Churchill, Master of the Rolls, died, and the grateful monarch, when he

[e] Woolryche's Life of Jeffries.

had made Jeffries keeper of his conscience, appointed Trevor Master of the Rolls. As a further proof of favour, he was elected, by the court influence, speaker of his first and only parliament in 1685; a parliament, according to Evelyn,[f] composed of the worst materials, and which comprehended even gentlemen's servants among its members, honourable by courtesy. It is most probable that his remarks were dictated by pique, his brother having lost his election for Surrey, and that he spoke of some who had raised themselves from that menial station, as was the case in later parliaments with Craggs and Moore. Lord Bolingbroke has vindicated its general respectability, and declares that Bishop Burnet (who asserts that the members were neither men of posts nor estates) speaks of it very indecently, and, I think, very untruly."

Be this as it may, the speaker presented a resolution to the king with the Money Bill, that they trusted to the king's word for the safety of the Church of England, which was dearer to them than their lives, and, in a spirit of sturdy boldness, repeated the last emphatic words with a raised voice and marked tone. The king dissembled his displeasure, but seized the opportunity of the intelligence of Monmouth's invasion to prorogue his refractory Commons, and when they met again only allowed them to sit for fifteen days.

Relegated to the rolls, Sir John Trevor presided over his court with much ability, and relieved the *ennui* of professional toil by intriguing against his patron. Jeffries had thrown down the gauntlet by reversing his decrees, discharging his most common orders of course, and setting up officers of his own

[f] Evelyn's Diary.

appointment to question the authority of the master, and insult him publicly on the seat of justice. Daring and unprincipled, the master hesitated not in making fierce reprisals, and when the fortunes of the favourite began to waver, from his tenacious adherence to the Church of England, would wrangle with him publicly in Whitehall[g]. He told the chancellor fearlessly, in Cornish's case, that if he pursued that unfortunate man to execution it would be no better than murder. Jeffries was not the man to grow pale at such a charge, nor would Trevor have preferred it on a principle of humanity, but his bearing evinced the recklessness with which he would fain have tripped up his quondam protector. "Like a true gamester," says North, "he fell to the good work of supplanting his friend, and had certainly done it, if the affairs of King James had stood right up much longer."

In July, 1688, he was sworn of the privy council, a circumstance which the Earl of Clarendon has noted in a tone of holy horror[h]. "July 6th, 1688. Sir John Trevor, master of the rolls, Colonel Titus, and Mr. Vane, Sir Henry Vane's son, were sworn of the privy council. Good God bless us! What will the world come to!" The privy councillors were scattered with the leaves of autumn, but Trevor had the merit of more fidelity than his fellows, and attended the monarch's levee on his return from Rochester. The result of this council, which the Duke of Hamilton, Lords Berkeley, Craven, Preston, and Godolphin, also attended, was a proclamation for suppressing tumultuary outrages, inserted in the Gazette, the last act of sovereignty performed by King James in England. At the revolution, Trevor was displaced from the rolls

[g] Roger North. [h] The second Lord Clarendon's Diary.

to make room for a more worthy man, Mr. Henry Powle; but nothing daunted, he resumed his practice at the bar, and was loud and voluble in the House. When it was proposed to disfranchise the borough of Stockbridge for bribery and corruption, and that two members should be added to the county of Southampton instead, having a fellow feeling for such practices, he manfully opposed the measure[i].

"I never heard of boroughs dissolved before. I am afraid, if this question pass, you, Mr. Speaker, and I, shall sit no more in that chair. I have the honour to serve for a borough in Devonshire (Beeralston), for which I am obliged to a member of the House (Maynard), and to the gentlemen of that county. If you break the ancient constitution of elections, I know not the consequence. The security of the nation was ever thought to lie in the mixture of this House. What shall then become of merchants to inform you of trade? The House stands upon ancient constitutions, and I hope you will not remove old land-marks."

The zealous advocate of corruption was not doomed to remain long unrewarded. Appointed first commissioner of the great seal in the room of Maynard, on the meeting of King William's second parliament, in the spring of 1690, he was unanimously elected speaker, and, on the death of Mr. Henry Powle in the autumn of 1692, nominated his successor at the rolls. He exhibited in the chair much of the boldfacedness of Bully Bottom, for instance[k]: "It was said by Harbord, he stood astonished at what a man in the greatest post in England did. Let us know it, that we may be astonished too!" Harbord, not to be brow-beaten,

[i] Parliamentary History, vol. v. [k] Ibid.

explained that he alluded to the Earl of Nottingham, who spoke of King William as a king *de facto* merely. The members, whom their speaker could not hector, he undertook to bribe. He offered, according to Burnet[l], to manage that party, provided he was furnished with such sums of money as might purchase some votes, and by him began the practice of buying off men, in which hitherto the king had kept to stricter rules. "I took the liberty to complain to the king of this method; he said he hated it as much as any man could do, but he saw it was not possible, considering the corruption of the age, to avoid it, unless he would endanger the whole."

Sir John Trevor had contaminated the chair too long, a space of five years exactly, when the committee appointed to report on corrupt practices in causing the Orphan Bill to pass, brought before the indignant notice of the House an order of the common council of London, directing "that Mr. Chamberlain do pay to the Hon. Sir John Trevor, knight, speaker of the House of Commons, the sum of 1000 guineas, so soon as a bill be passed into an act of parliament for satisfying the debts of the orphans, and other creditors of the said city." And on the back of the said order was this indorsement, viz., "The within mentioned 1000 guineas were delivered, and paid unto the Hon. Sir John Trevor, this 22nd June, 1694, in the presence of Sir Robert Clayton and Sir James Houblon, which at 22*s*. exchange, comes to £1,100[m]."

The House, after a careful perusal of these and other documents, establishing the guilt of the accused beyond cavil, came to a unanimous resolution, upon reading which even the countenance of Trevor must

[l] Burnet's Memoirs. [m] Parliamentary Hist. vol. v.

have worn a hue of shame: "That Sir John Trevor, speaker of this House, receiving a gratuity of 1000 guineas from the city of London, after passing of the Orphans Bill, is guilty of a high crime and misdemeanor." The next day, an incensed and curious House found their meeting for business impeded by the following letter, inclosed in one to the clerk:—

"Gentlemen, I did intend to have waited upon you this morning; but, after I was up, I was taken suddenly ill with a violent cholic. I hope to be in a condition of attending you to-morrow morning; in the mean time I desire you will be pleased to excuse my attendance. I am, with all duty, gentlemen, your most obedient, humble servant, J. Trevor, speaker. March 13, 1694—5.

This plea of convenient illness was readily understood; but the members, however disgraced by their unworthy head, resolving to follow precedents, adjourned to the next morning at 10 o'clock, when there came another written apology:—

"Mr. Jodrell, my illness still continues, which makes me unable to come abroad, wherewith I desire you to acquaint the House, and that I humbly pray they will please to excuse me for not attending them. I am your friend, and servant,

March 14, 1694. . "J. Trevor, Speaker."

The consent of the king having been obtained, they proceeded immediately to make a worthier choice in Mr. Paul Foley, chairman of the committee of scrutiny, and, as soon as their new speaker had been presented and approved, expelled Sir John Trevor the House. This act of righteous retribution was, however, incommensurate with his misdeeds. We should

form a very inadequate estimate of his corrupt gains, were we to restrict ourselves to this one transaction, though, even in this very measure, it was generally believed that a much greater present had been made on behalf of the orphans. The *douceur* of 1000 guineas would seem to have been entered regularly in the ledger from a notion that it was a mere matter of business, and too trifling to excite comment. The company had thriven and hoped to thrive by bribery at court. Lord Halifax wrote in 1681[n], "The East India men intend to have it moved to give a yearly present to the king of £10,000, and leave it to his pleasure whether he will accept the gift or no."

On examining their books, it was ascertained that 200 guineas had been given to Sir John Trevor for a new year's gift. A further sum of £10,000 had been set apart at the time of soliciting their bill, of which Sir John was to have one-third in the event of the charter being confirmed, and the act of parliament passing into a law. A day or two before this searching investigation of the committee, 500 guineas were brought back from Trevor's house, which had been paid to him by Sir Thomas Cooke, the governor of the East India Company, under colour of arrears due to the speaker, as first commissioner of the great seal. An impeachment was mooted to compel this corrupt official to disgorge some of his gains, but hushed up by the intrigues of the court. Naked, but not ashamed! stripped of every shred of reputation, yet still confident and callous, he was quietly banished to his lucrative and most important office at the rolls, and, after tampering with the moneys of the orphans,

[n] Clarendon Correspondence.

he was permitted for twenty-three years more to decide on the rights of suitors!

For retaining the mastership of the rolls, he had, shameful to relate, a precedent, exactly in point. "Sir Edward Turner," says North, "had served long as speaker of parliament, and had been useful to the crown and also to himself. But, on the discovery of a small present made him by the East India Company, he was denounced in the House of Commons. The anti-court party took all advantages against the court, and made a mountain of this mouse, for it was but a trifle! However, it lost him much of his credit and authority in the chair, which he was need to have, and he thought fit to give way, and sit there no longer to be exposed to the taunts which would be continually thrown in his way!"

The slight flaw of which this accommodating party-writer speaks so trippingly, was no less than taking a bribe of several hundred pounds from the East India Company, a disqualification for the speakership; but as personal corruption could not possibly work any mischief in his majesty's Court of Exchequer, he was made chief baron! Sir John Trevor retained his situation as master of the rolls. more than twenty years. His age was not sufficiently base, nor yet honest enough to appreciate the value of a judge, whose hands should be free from gifts, and on whose fair fame not even the shadow of suspicion should be allowed to rest. There was more laughter than resentment at the detection of the speaker's venality; the wits said, alluding to the glide in his eyes, "that justice was blind indeed, but that bribery only squinted; that he could no longer take an oblique view of every question from

the chair[o]." A retort, ascribed to the excellent Archbishop Tillotson, was in general circulation. That prelate, chancing to meet the speaker some time before his disgrace, at the door of the House of Lords, Sir John Trevor could not conceal his spleen, but muttered, loud enough to be overheard, "I hate a fanatic in lawn sleeves." Archbishop Tillotson turned full round upon the impudent lawyer, and recriminated, "And I hate a knave in any sleeves."

It shows the laxity of the age, that the ex-speaker should have continued to live, after his public exposure, on familiar terms with celebrated divines of his day. He had appointed Atterbury preacher at the rolls, in 1698, from his singular excellence in the pulpit; and this eloquent priest writes of his patron to Bishop Trelawny, in 1704[p]: "The master of the rolls drank the healths of your lordship and of the whole family, quite through to me on Sunday;" as if his notice could have conferred honour or pleasure on the Bishop of Winchester.

Indifferent to disgrace, Sir John Trevor would have returned with unblushing front to the new parliament which met in 1695, but for the express prohibition of the king. In the Shrewsbury Correspondence we find Lord Somers writing to the Duke (November, 1695), "The king said he had, in a manner, commanded the master of the rolls not to come into the House of Commons, on purpose to prevent the inconvenience the reviving that matter would occasion." He had lost caste in public though not in private life by the notoriety of his corruption, and was cashiered by the court, not for taking bribes—there was nothing

[o] Yorke's Tribes of Wales.
[p] Atterbury's Correspondence, by Nicholls.

uncourtierlike in that—but in being found out! On the subsequent expulsion of Duncombe for similar mal-practices, Montague, chancellor of the exchequer, writes,[q] "Trevor has been for some time laid aside, and Guy may be made to be subservient, or, if he may not be trusted, I think he should be sent after Duncombe."

Tainted as he was, Sir John Trevor contrived to be member of the first privy council of Great Britain, though no more than eight commoners in all were admitted to that distinction. In the solemn procession to St. Paul's, in 1706, to return thanks for one of Marlborough's victories, he rode in the same coach with Chief Justice Holt, blending together the pure and the spotted ermine. He had adopted the cautious example of the chief justice, and, on the accession of Queen Anne, procured a new commission. His merit as a lawyer was confessedly great. He decided the various matters of equity submitted to his adjudication with marked ability, and, taking warning by public exposure, pronounced his decrees without the surmise of purchased favour. He followed, indeed, a bad precedent in granting audience to suitors at his private residence.[r] When Dr. Waugh made a complaint of his ward being taken from him and married without his knowledge, Sir John Trevor heard the parties at his house at Knightsbridge, and, the registrar attending him there, made an order for taking several persons into custody for contempt of court. Sir Harbottle Grimston, in like manner, converted into a court his country-house at Gorhambury.

A modest demeanour might have been looked for

[q] Shrewsbury Correspondence.

[r] Jekyll, on the Rights of the Master of the Rolls.

from the disgraced judge, so much at the mercy of those who practised before him, but far from being subdued and sensitive to reproach, he carried into his court the tone and manner of a bully, and treated the counsel (the independence of the bar had not yet been established) with extraordinary freedom. A broad, frowning, face, large bushy eye-brows, and an abominable squint added to the terrors of his vituperation. Some reproaches roughly flung at his nephew, a young man of promise, lately called to the bar, but shy, and of a nervous temperament, are said to have gone so near his heart, that he drooped under them and died[s].

Superior in legal attainments to all the chancellors and lord keepers of his day, with the exception, perhaps, of Somers, he seems to have presumed on his learning, and to have loved to play the despot. We find Lord Harcourt, on several occasions, seeking support in the judgment of Sir John Trevor[t]. In one case, for instance, having expressed an opinion that certain process issued against a wife, during her husband's absence abroad, was irregular, but being met by an observation from counsel which staggered him, my lord keeper said he would ask the master of the rolls his opinion, and be governed by that. Afterwards, the master of the rolls coming into court, was clearly of opinion that the process was regular, and said the practice of the court had been constantly so, and so, accordingly, the case was determined. In another cause, on which the master of the rolls had already adjudicated, my lord keeper returning to his seat, and being asked his opinion, said he was of the same opinion, to prevent a rehearing before himself.

[s] Roger North. [t] Life of Lord Harcourt, in Law Magazine.

The rule founded in equity, that marriage and the birth of a child shall revoke a will, such a complete change of circumstances not having been contemplated by the maker of the will at the time he made it, was first laid down by this excellent jurist. He died at his house, in Clement's Lane, May 20th, 1717, leaving behind him the repute of being a good lawyer, but good in no other sense whatsoever, dissolute in private life, covetous, and sordidly mean. His place was supplied by Sir Joseph Jekyll, a still more able judge, and honest.

On the convenient illness and resignation of their speaker, Mr. Paul Foley was voted by the House into the vacant chair, through the indiscretion of Mr. Wharton, comptroller of the household. His unlucky phrase, that he would *nominate*, was met by loud cries of "No," and "Order," and, in the heat of indignation at a supposed slight sought to be cast upon their privileges, a majority of thirty-three members elected the chairman of the committee, which had done such signal service, speaker, in preference to Sir Thomas Littleton, the nominee of the crown. The plain and unvarnished report of this proceeding, given in the Parliamentary History, deserves to be transcribed, as it furnishes an important page in the annals of privilege[a].

"Mr. Wharton stood up, and spake as followeth:

'Mr. Jodrell, I am commanded by the king to inform this House, that the late speaker, Sir John Trevor, hath sent him word, That his indisposition does so continue upon him, that he cannot further attend the service of the House, as speaker, and further commanded me to say, That there may be no delay in the public proceedings, he does give leave to

[a] Parliamentary History, vol. v.

this House to proceed to the choice of a new speaker. Sir, the filling of that chair is the highest station any commoner of England can be called to; but, however honourable it is, the toil and difficulties of it are so great, that, I believe, there is no reasonable man, that hears me, but would be rather glad to have it supplied by any man than himself, and, therefore, I shall, without fear of displeasing any person, out of so many who are qualified to serve you, nominate——'

"Upon this he was interrupted by a great noise in the House, crying 'No, No, No;' and several gentlemen stood up to speak to order. Exceptions were taken by several members, 'That it was contrary to the undoubted right of the House of choosing their own speaker, to have any person who brought a message from the king to nominate one to them.' Notwithstanding, the comptroller stood up again, and named Sir Thomas Littleton, which was seconded by Sir Henry Goodrick: whereupon arose a debate; and another person, viz., Paul Foley, Esq., was proposed by Sir Christopher Musgrave, and seconded by the Lord Digby. And after a long debate in relation to both the persons, the question was put by the clerk, 'That Sir Thomas Littleton take the chair of this House as speaker:' the clerk declared the yeas had it. The House was divided; the yeas on the right hand, and the noes on the left. The tellers were appointed by the clerk, viz., for the yeas, James Chadwick, Esq., 146. The tellers for the noes, Colonel Granville, 179. So it passed in the negative.

"Then the second question being about to be put, Mr. Foley stood up to speak, but the House would not hear him, but ordered the clerk to put the question, 'That Paul Foley, Esq. take the chair of this

House, as speaker.' It was resolved nem. con. Upon which Mr. Foley made his excuse in his place, which was not admitted by the House. He was conducted to the chair by the Hon. Colonel Granville and the Hon. Henry Boyle, Esq., and upon the first step of the chair, after some pause, he made a speech to the House again to excuse himself, which not being allowed, he sat down. And then the mace was laid upon the table."

Mr. Foley, having acquiesced in the decision of the House, with less show of reluctance than previous ceremonial might require, went up to the House of Lords next day to solicit the royal assent, and, as he might not unreasonably fear lest the precedent of Sir Edward Seymour's rejection by the king should be applied to his case, were he too peremptory in framing excuses, contented himself and appeased the jealous phantom of etiquette with the following humble and deferential, but firm, language. "May it please your most excellent majesty! The Commons of England, in Parliament assembled, having by a very extraordinary occasion lost the service of their late speaker, proceeded to a new election, and, being commanded by your majesty to present their speaker at this time and place, they now wait on your majesty in full parliament, to present me to succeed, on whom they have unanimously agreed. I must acknowledge myself very unfit for so great an employment, and wish they have not done themselves a great prejudice therein, which they might have avoided, having choice of much more able members for that service; but I dare not oppose my own opinion to that of so great a body as the Commons of England, and therefore, with your majesty's approbation, am ready to serve your majesty,

and them, to the utmost of my abilities. If they find themselves on trial mistaken, and that I cannot answer expectations, though hitherto they will not allow me to excuse myself, yet then I hope they will, and provide one more fit for your majesty's and their service."

The lord keeper in terms of courtesy which graced, as it became, "the gentle Somers," at once ratified the Commons' choice. The speaker, on whom greatness had been thus suddenly thrust, was, according to Burnet, a deserter from the republican ranks to the tories. Writing of the year 1693, he says: "But the party of the tories was too inconsiderable to have raised a great opposition, if a body of whigs had not joined with them: some of them had such republican notions, that they were too much set against the prerogative, and they thought the king was become too stiff in maintaining it. Others were offended because they were not considered nor preferred, as they thought they deserved. The chief of these were Mr. Paul Foley and Mr. Harley, the first was a younger son of one, who, from mean beginnings, had by iron works raised one of the greatest estates that had been in England in our time. He was a learned, though not a practising, lawyer, and was a man of virtue and good principles, but morose and wilful, and he had the affectation of passing for a great patriot, by his constant finding fault with the government, and venting an ill-humour and a bad opinion of the court. Foley joined with the tories to create jealousies and raise an opposition. They soon grew to be able to delay matters long, and set on foot some very uneasy things that were popular: such as the bill against parliament-men being in places, and that

for dissolving the parliament, and for having a new one every third year."

If we may rely on the malicious gossip, Roger North, this republican zeal had been carried by Foley in his youth to a ranting excess, and had betrayed the too ardent lawyer, on one occasion, into a forgetfulness of what he owed to himself as a gentleman. "Paul Foley had applied himself very closely to the learning of records. He showed Lord North a book which he had compiled, which was designed to go beyond the ordinary collectors such as Cotton and Prynne. I heard him say things would never go well, till forty heads flew for it. He had very singular opinions: one was, that 'all foreign trade was loss and ruinous to the nation.' The mortal evil of foreign trade was the great supply it brought to the crown, by which it could be supported, without being continually at the mercy of the parliament for supplies. When his lordship (Lord Keeper Guilford) was named in the House of Commons in order to be criminated, he was pleased to say in the House, that he certainly knew that person to be of arbitrary principles, because he had heard him discourse to that purpose at his own table."

It is to be hoped for the credit of the first gentleman in England by courtesy, that this hearsay tale was the mere invention of some enemy: North's zealous nepotism would at once give credit to the scandal, without any searching scrutiny into its truth. "The lord keeper," he says, "found that factious lawyers, and particularly Paul Foley, were very busy in ferreting the musty old repositories, with design to produce in parliament what they thought fit to the prejudice of the crown and its just prerogative. They conferred

with the bellwethers of the party in the House of Commons, and frequently alleged passages in the records of parliament, and certain exotic cases, extracted chiefly from those in irregular times, when the crown had been distressed, and imposed upon, and done, not only partially, but often untruly, and always defective. By which means they sustained their antimonarchic institutions."

As Foley had a good face for a grievance, the House generally deferred to him, in originating motions of rigour. An impeachment of Lord Peterborough for conforming to the Church of Rome being voted, he was instructed to carry up the articles[w]. When a bill was brought in for securing the government against papists, and other disaffected persons, it was recommended to his care; when some method was sought for the better help of creditors, by means of more stringent penal enactments, he and Serjeant Wogan were recommended to prepare it. A virulent and ready declaimer against men and measures could not, in those disaffected times, fail of commanding a party. Harley appears to have been the head, and Foley the right hand, of opposition: the one prompt to devise, and the other to attack. The jejune and scanty fragments of debate which remain prove his dexterity and daring as an alarmist, an advocate for severity, and a strong supporter of retrenchment and reform[x]. "We are in danger from France and from some amongst us. There were never so many Louis d'ors in payment; a third part of great payments is made in Louis d'ors. Sawyer pressed execution, and that is his crime, and things will never be well; till some of that profession are made examples. . . . When

[w] Journals, vols. x., xi. [x] Parliamentary History, vol. v.

money was asked by Edward III. to maintain what he had conquered in France, the parliament answered they were concerned only to keep England, and not what was conquered in France."

In his strenuous opposition to ministers, Mr. Foley cared not to incur the king's personal antipathy: "It is a great prejudice that English forces should be commanded by foreign officers. This summer there was a mighty great confusion in the English army: orders were given in Dutch and French to the English, who understood neither Dutch nor French! The general officers were at dinner, when they should have sustained our men." A speaker who indulged in such topics was sure to have a large and willing audience. He carried a resolution that, many of the great affairs of the Government having been unsuccessfully managed, their majesties be humbly addressed to prevent the like mischief in future, by employing men of known ability and integrity. The opposition orator, moving in 1693 to consider the miscarriages of the fleet, declared that we once had great hopes, but were become a scorn and contempt to other nations. Soaring a still higher flight, he ventured on language for which he might have been committed to the Tower. When the king had refused to pass the Place Bill, the Commons agreed to a representation that they imputed it to his majesty's being unacquainted with the constitution of parliament. The king treated the House, according to a Jacobite paper[7], "with the whipped cream and perfumed air" of a vague and general reply. Foley moved, on its being reported, that an humble address and remonstrance be made to the king for a further answer. "The king," he said with almost se-

[7] The Danger of Mercenary Parliaments.

ditious boldness, "has a great regard to our constitution, but it appears not that he understands our constitution, which he may take to be to reject our bills of ever so just grievances."

His motion for an address to the king for a further answer, which would have pushed their difference to extremity, was overruled by the good sense of a large majority: 229 members against 88 marking their dislike of its extravagance.[1] But he soon regained his accustomed sway, on the investigation of the corrupt and peculating practices which then infected every department of the state. Appointed chairman of a committee to inspect the books of the East India Company, and discovering that £80,000 had been abstracted from its funds in the preceding year, he traced the grievance of corruption to the fountain-head, and laid bare the venality of the late speaker of the Upper House and the speaker of his own, upon whose ruin he mounted to the chair.

When re-chosen in the next parliament, he was said[2] to have evinced disgust at the slight of not being made privy councillor, according to precedent, and to have become in consequence still more alienated from the court. In an important debate, he had the pleasure of pointing to his son, and hearing him speak with spirit and feeling against that violent inroad on constitutional law—the attainder of Sir John Fenwick. In conformity with his notions of economical reform, he desired to be furnished with a table of all fees for private bills and other proceedings, and readjusted the scale[a]. His allowance was so judicious that it continued without variation for more than half a century, and was only modified according to the change

[1] Vernon's Letters. [a] Hatsell.

in the value of money in 1751. It would appear, from the homely but truth-telling letters of Mr. Vernon, that the ex-speaker, towards the close of life, evinced a strong disposition to rat. "February 11, 1697-8. Paul Foley gives me a strange reason for preferring him, saying he is at the head of the Jacobites in Herefordshire, and if he were removed they would moulder away. He speaks of his son as of one otherwise inclined, that would be knight of the shire next choice, but if he shall vote as his son does, the Jacobites would have another head of the same family." The son did not degenerate from his sire in the useful attribute of modest assurance. "I hear," Vernon writes in another letter, "that Tom Foley has been with the king, to desire the Bishop of Bristol might be translated to Worcester, and the king's answer was that he should consider it as much as he and his friends considered any business that related to him." The last notice of the ex-speaker is furnished in a letter from Mr. Vernon to the Duke of Shrewsbury: "July, 1698. Mr. Foley told me the whigs were setting up in Westminster, and his son was likely to be disturbed in Stafford." He died in the summer of the following year, in the whirl and vortex of politics, leaving a long line of descendants, afterwards ennobled, but none more able than himself, or more worthy than the good old man, his father.

We are told by Nash, in his History of Worcestershire: "The parish of Witley was purchased by Thomas Foley, Esq., and has continued the principal seat of that very opulent family for above one hundred and fifty years; a family that is a striking instance what great riches may be acquired in a trading country by integrity, industry, frugality, and an extensive

trade; this within four generations. Bishop Fleetwood says the law hath laid the foundation of two-thirds of all the honours and great estates in all England; more than this proportion may be reckoned in Worcestershire. In all England there is no noble family, and very few opulent ones, that sprang from the church, except Lord Sandys'. Physic hardly ever raised its professors above knighthood or baronetage. Our county, besides a Foley, can show a Knight, a Taylor, and others, who have gained a more than ministerial fortune by the iron trade." 'Mr. Thomas Foley, the father of the speaker,' says Baxter[b], 'from almost nothing did get about £5000 per annum, or more, by iron-works, and that with just and blameless dealing. In thankfulness to God for his mercies to him, he built a well-endowed hospital near Stourbridge, to teach poor children to read and write, and then set them apprentices, and contributed to its support about £500 a-year: 'My end being,' Mr. Foley writes in his will, 'the glory of God, and their real good.'"

It were to be wished that more personal anecdotes could be obtained descriptive of the character of his celebrated son, but few can imagine what scanty notices remain, except those who have attempted, as in this biography, to visit the neglected, and call to remembrance the forgotten.

With Sir Thomas Littleton was revived the custom to appoint country gentlemen to the chair in preference to lawyers, a custom which is attended with the advantage of placing in the post of honour the representatives of counties and men of landed property; thus attaching to the speakership that respect which wealth and social position always command, but obnoxious to

[b] Baxter's Memoirs.

the serious evil of investing with an arduous pre-eminence men of comparatively little skill, without the requisite technical knowledge, and of no practised ability. In the present instance the mischief was not felt, as the speaker had been trained in habits of business from his youth. The youngest son of a poor baronet, he was designed for trade, and accordingly bound apprentice to a citizen of London, Sir John Moore, sometime lord mayor, with whom he continued till his elder brother's death[c]. His father immediately removed the young apprentice on this event before completing his articles, and gave him a liberal education at the university. His talents, sharpened in the city and polished at Oxford, introduced him into notice, and formed a sure passport for an intriguing politician to the school of the Cabal, not exactly the best forcing-house for young patriots. In 1667 he was chairman of the committee which came to the shameful resolution that Clarendon should be impeached of high treason.

Pepys records, under date of 1668[d], that Sir Thomas Littleton and Sir Thomas Osborne were put into the navy; the one a creature of Arlington's, and the latter of the Duke of Buckingham, a comely gentleman. Being ousted in 1675, and inspired by the secret counsels of Shaftesbury, he took his place in the front ranks of opposition with Sir William Coventry, Colonel Birch, Sir Thomas Meres, Lord Cavendish, and Powle. The murmuring Commons having voted an address for the recall of two thousand English auxiliaries from the service of the French king, Charles gave a positive refusal, asserting that the recall of that

[c] Burnet, and Noble's Continuation of Grainger.

[d] Pepys's Memoirs, vol. i.

force would derogate from his honour and dignity. In the warm debate which ensued, Sir Thomas Littleton distinctly asserted, for the first time in the proceedings of parliament, the constitutional latitude by which a king's speech is animadverted on, as proceeding from the minister.

"Here," said he, "is an answer from the king; I desire that what is said upon it may be thought to reflect, not upon the king, but upon its authors. I think it a very bad bill, one highly prejudicial to the people, and destructive to the king."

"He had," says Lord John Russell[e], "more than any other person of his time, that command of historical knowledge, and that skill in argument, which are necessary to form an able speaker of the present day." On the bill for prohibiting French commodities in 1677, Sir Thomas Littleton moved "an exemption of one year for printing paper, by reason of the great works in printing now in hand; such cannot be carried on without papers of several sorts, and so will constrain men to print beyond sea, to the great detriment of trade." His clear-sighted amendment was negatived, but the discerning statesman had too keen a perception of his own interests to linger long in the ranks of opposition. Setting the fashion, so well followed up since by steady, scheming whigs, he became, in 1681, a commissioner of the admiralty, but continued to draw his pension of £500 a-year from Barillon, and to preserve a good understanding with the Prince of Orange. Though soon removed from office, he acted as a peace-maker in the House between the court and country party; and, in this character, when the House

[e] History of Europe.

were running wild with schemes for excluding the Duke of York from the succession, mooted the impracticable notion of a Protestant regency under the Prince of Orange, leaving to James the empty title of king, making a mere puppet of the sovereign, and the crown a bauble. The idea seems to have been started by Bishop Burnet, with whom Sir Thomas Littleton lived in habits of intimacy, and who prefaces his report of the manner in which it originated with a partial description of the future speaker, colouring his portrait with the warm tint of friendship[f].

"He was the ablest and vehementest arguer of them all. He commonly lay quiet till the end of a debate, and he often ended it, speaking with a strain of conviction and authority that was not easily resisted. I lived the very next door to him for several years, and we spent a great deal of our time every day together. He told me all their management, and commonly, when he was to put his whole strength to argue any point, he used to talk it over with me, and to set me to object all that I could against him. He lived wholly in London, so matters were wholly in his hands during the intervals of parliament, and by his means it was that I arrived at such knowledge of their intrigues. He was a wise and worthy man, had studied much modern history, and the present state and interests of Europe."—"I thought," said Burnet, "there should be a protector declared, with whom the regal power should be lodged, and that the Prince of Orange should be the person. He approved the notion, but thought that the title 'protector' was odious, since Cromwell had

[f] Memoirs, vol. ii.

assumed it, and that 'regent' would be better. We dressed up a scheme of this for near two hours, and I dreamt no more of it."

The worthy Doctor was awakened from his day-dream by the unwelcome intelligence that their pet scheme had been scouted by the Oxford parliament, which would not hearken to half-measures or an equivocating compromise, and could not certainly be accused of refusing to listen to reason, because it rejected with contumely his irrational propositions. Sir Thomas moved "That a bill to secure the Protestant religion should be brought in, and consist of the following heads:—That the Duke of York should enjoy the title, but the Prince of Orange exercise the power; that, if a prince should be in being when it should please God to take our present king, they should have power to sit. That the judges, and all other officers of the crown, should be continued till liberty and property were secured; that if there was no parliament sitting, one should assemble of course, and that to prevent the duke's interfering to prevent this, he should by the same act be banished to the distance of five hundred miles from England, not to return as long as the king lived." "For my part," said the projector, speaking to his great discomfort from the neutral benches, "I have had the ill-fortune to have the wind in my face; to be against the general opinion and stream of the world; and, having had no share for some time in the government, I may speak my mind possibly more freely than those that have. I have proposed the best expedient I can to preserve religion and quiet the minds of the people; but I am afraid if we do nothing at all, but let the

thing lie loose, we shall gratify the Jesuits on the one hand by our conclusion, and let the Commonwealth men shuffle again on the other hand; but if you go into some medium, both these men will be undone." His chimerical scheme was almost universally scouted. "Some seven or eight disquieted lawyers," says Reresby[h], "who thought they had been so active, should the duke come to the crown, he would never forget they were for exclusion, gave the measure a cold support;" but the times were too completely "out of joint" for such a clumsy contrivance to mend them.

Littleton's parliamentary career after the Revolution tends more to justify the bishop's panegyric on his talents than his integrity. A strenuous advocate for all measures that would gratify the court, and a thorough partizan, he declared this to be the secret of his policy[i]:—"I, for my part, have a way how to guide my vote always in the House, which is to vote contrary to what our enemies without doors wish;" making, of course, his own opinion the test of their desires—the most convenient pretext ever urged for a politician playing fast and loose. He opposed the salutary bill for allowing counsel to prisoners in trials for high treason, because it was obnoxious to the prejudices of William, and countenanced by the tories; and to win over the country gentlemen, though he had not their excuse, played upon the prejudice entertained by the weak against the strong, a violent dislike of lawyers. "Here you shall have cunning lawyers defending an impeachment. I hope I shall not degrade your members to argue against lawyers; but when an impeachment is by gentlemen

[h] Sir J. Reresby's Memoirs. [i] Parliamentary History, vol. v.

of his own quality, I think a cause is as well tried without counsel, and I would disagree with the Lords." This puerile objection to the Lords' amendments to the Bill of Trials, though it lent a colour to the royal veto for a time, did not ultimately prevail.

In the same illiberal spirit, upon the debate whether Sir John Fenwick should be allowed further time to produce his witnesses, Littleton suggested—"It may be the counsel have a mind to have another fee!" and inveighed against the constraint of being fettered by the rules of legal evidence. "They say we are not to give our judgment upon our private opinion. I always will. Whether this be strictly legal evidence I do not lay so much weight upon it, as whether it hath satisfied my conscience."

According to this cunning standard, any vote might be held good; weighed in this elastic measure, any parliamentary proceeding would be of the required tale.

The merits of such a convenient politician and dexterous debater were too signal to be overlooked. Accordingly, in 1695, we find the Duke of Shrewsbury writing to the king in his behalf, and insisting strongly on his claims. "The manner of his service in the House does more directly entitle him to ask a place in the treasury, than any other man that I know." He was re-appointed commissioner of the admiralty, and in 1698 chosen speaker. In a pamphlet published at the time[k], his character was held up to obloquy, as "that of a known profligate in the service of the court, who had no other characteristics than confidence and dexterity; a person already de-

[k] Considerations upon the Choice of a Speaker.

bauched, and once rejected by the House on a like occasion, and who, being already a lord of the treasury, was under the greatest temptation to do whatever was demanded of him, and consequently could neither with honesty nor decency hold two such trusts as were inconsistent with each other." After which the author speaks of another gentleman, who, at the Revolution, was £16,000 in debt to the crown, and, by a particular clause in the Act of Indemnity, procured a release. By the last of these gentlemen he meant Sir Edward Seymour, and by the first, Sir Thomas Littleton, concerning whom, and what was to be expected from him, he farther writes as follows:— "Suppose there is a debt growing every day upon the nation by seamen not discharged, while the money given for so necessary a purpose has been disposed of for keeping up an army that should have been disbanded, pursuant to the determination of the last parliament, after the most mature and solemn debates, must not the House expect interruptions in bringing on that matter, difficulties in wording, and delays in putting the question, from one who in his station at court may be perhaps charged with advising the keeping up of the army, and in the last parliament was the best and most artificial advocate for not disbanding at all?"

The pamphleteer, who sought by these disparaging inuendoes to secure the election of Harley against both competitors, was disappointed, Sir Thomas Littleton being chosen by a large majority. He made a speech of self-abasement on the occasion, more apologetic even than the false and hollow etiquette, "the pride that apes humility," demanded; but the whole scene

of his installation is thus excellently described in one of Vernon's Letters.

"December 6, 1698.—Sir John Rolles began the opposition, who said Sir Thomas was an able and honest man, but he excepted against one in that situation for reasons given in the printed considerations, which was urged more virulently by Mr. Byerley with reflections on the treasury, who was answered by Mr. Pelham, he desiring that speech might be made when there was a speaker, that they might vindicate themselves from such aspersions. Lord Norris and Mr. Hammond carried on the debate, and were answered by Mr. Montague, Mr. Smith, &c.; but the naming any competitor was all along avoided, and yet they would not Sir Thomas should be brought to the chair without a question, which others said was unusual and unnecessary, unless any other person was proposed; but Sir Edward Seymour interposing that there was no other way of deciding but by a question, Sir R. Onslow, who was for Sir Thomas, came into it, and the question was put very much to Sir Thomas's advantage. He carried it by a majority of 107. It would have been by one more had he not voted against himself. The division was 242 against 135. Sir Thomas was approved: he excused himself pretty laboriously, and is rather thought to have overdone it, and he accepted a little flattering, by saying, as the king had done many impossibilities, he might do another in enabling him to discharge the place, and added a Latin verse, which is, I think, of his own making,

Non habeo ingenium, Cæsar cum jussit, habebo."

His installation as head, without a competitor, proved to be no good augury of a quiet session or a whiggish house. The bill for disbanding the king's

favourite Dutch guards was carried, to his high displeasure, with scarcely the semblance of opposition; the Rose Club gave way in despair, and one of their staunchest leaders, at the end of six weeks, exclaimed, "We are a dispersed and routed party[1]!"

Infirm health tended to increase the speaker's disquietudes. Vernon reports that, in February, 1700, he came ill with a fit of the gravel, and assumed the chair only to adjourn the house. "Unless better to-morrow, they will propose Mr. Harcourt or Mr. Conyers; and if either of them be put into the chair, he will be kept there. . . . When Sir Thomas came, Harley very civilly desired to know when he thought he should be in a better condition to attend the service of the House. He returned thanks, and if they pleased to spare him till Thursday, he hoped he should be well, otherwise he would trespass no longer on their patience."

The speaker occupied an uneasy chair for two years, when the incensed monarch dissolved an almost mutinous House of Commons. Summoning Sir Thomas Littleton to his presence, on the meeting of the new parliament, February 1700-1, the king declared his pleasure to be, that he should give way to Mr. Harley, as such an arrangement would be most conducive to his interests. With the prompt compliance of an old courtier, the ex-speaker acquiesced in the royal will, and absented himself from the House on the day of election. He was rewarded for his complacency with the valuable office of treasurer of the navy, which he held till his death, unshaken by all the efforts made to remove him. "Mr. Montague told me," writes Vernon, "that he had seen Sir Thomas

[1] Vernon's Letters.

Littleton, and that he found him very indifferent whether he removed from the treasury." "I have seen Sir Thomas since," adds the disappointed intriguer, "who is not near so indifferent as was represented." Strange credulity in the whig official to dream that a brother whig would be indifferent about parting with a place of £1500 a-year and perquisites and possibilities.

In King William's last parliament, the royal veto being removed, Sir Thomas entered the lists against Mr. Harley, and was defeated in a full House by fourteen votes only. The court favoured his election, and canvassed several of the tories in office, Sir George Rooke, Sir Charles Hedges, and others, in vain[m]—so powerless had become the personal wishes of the sovereign, who could once nominate the speaker, so great the influence of Harley. By his dexterity as a debater Sir Thomas Littleton materially assisted in accomplishing the union. Of his ready rejoinder, the court annalist has given one short specimen. "When the first four articles had been carried without a division, which the tories called 'riding post,' SirThomas replied, pursuing the metaphor, 'we do not ride post, but a good easy trot, and, for my own part, as long as the weather is fair, the roads good, and our horses in heart, I am of opinion we ought to jog on, and not to stay till 'tis night.'" Dunton, the bookseller, was so transported with his eloquence, as to commemorate its triumph in heroic verse[n]:

"Fair Albion's senate, once a listening throng,
Confessed the wondrous beauties of his tongue,
His country's patriot, and the land's defence,
For this, as well as that, shares the kind providence."

[m] Vernon's Letters.

[n] John Dunton's Life, by Himself.

It must be hoped, for the credit of the navy treasurer, that his periods never halted so vilely as the rhyme of his panegyrist. The active part which Sir Thomas Littleton took in the debate on the union was the last efficient service which he rendered to his party. He died January 1, 1709–10, anticipating, with his wonted fortune, the total overthrow of his friends, and leaving behind him the memory of an excellent man of business and sound practical statesman, not untinctured with selfishness; a favourable specimen of a race not yet wholly extinct, the good old jobbing whig. Mackey, in one of his brief portraits, too slight to satisfy a lady, describes him as "a stern-looked man, of a brown complexion, well shaped;" and Dunton adds the further description, that "he was of the middle size." As he left no family, the baronetcy descended to his great-nephew, with an inheritance of good fortune, which has rarely deserted the numerous scions of his illustrious and favoured house.

CHAPTER III.

THE life and character of Littleton's eminent successor deserve a more full investigation and searching commentary. For twenty years the name of Robert Harley exercised a talismanic influence over the House of Commons, and the administration of the Earl of Oxford, whether for weal or woe, is even yet felt in the destinies of Great Britain. His family may be traced to a period anterior to the Conquest. His father, Sir Edward Harley, of Brompton Bryan, in Herefordshire, was an active champion of republicanism and dissent, in the civil wars. Among the earliest names to the signature of the Solemn League and Covenant, we meet with those of Lenthall, Cromwell, and Harley. A zealous puritan, he was commissioned by the Long Parliament to destroy all images, altars, and crucifixes—a labour of love, which he discharged with such zeal, that he would not allow any one piece in the fragments of wood and stone to be at right angles upon another[a]. He made some atonement for this extravagance in 1656, when, excluded from the House by the forcible interference of the protector, he joined

[a] Grainger.

in a spirited remonstrance, that they would not be frightened or flattered to betray their country, and give up their religion, lives, and estates, to be at the will, or to serve the ambition, of Cromwell. Reconciled to the court of Charles II. by this opposition, he was appointed governor of Dunkirk, but still sided with the country party, and was supposed to transmit a strong presbyterian bias to his son.

Robert Harley, Sir Edward's eldest son, was born in Bow-street, then a fashionable part of London, Dec. 5, 1661, and received his education at a private school kept by a presbyterian minister, the Rev. Mr. Birch, at Shelton, Oxfordshire. This dissenting academy might have rivalled Eton in the future eminence of its pupils. He had for school-fellows Harcourt, the future lord chancellor, Trevor, afterwards chief justice of the common pleas, and ten members of the House of Commons. Being destined for the law, he was entered early at one of the inns of court, without going to either of the universities, his father probably disliking their high church and tory character. At the Revolution he was selected by the gentlemen of Worcestershire to convey a tender of their services to the Prince of Orange, and raised a troop of horse in his cause. Returned to the Convention Parliament for Truro and afterwards for Radnor, he raised his standard as an independent member, and, supported by his brother-in-law Foley, established a sort of flying squadron, attacking and skirmishing in the outskirts of both parties. "Not being considered at the Revolution," writes the hostile whig bishop[b], "as he thought he

[b] Burnet, vol. viii.

deserved, he set himself to oppose the court in every thing.

"He had the chief hand both in the reduction of the army and the matter of the Irish grants; the high party trusted him, though he kept up his interest with the presbyterians, and he had so particular a dexterity, that he made both the high church party and dissenters depend upon him. He was a man of great industry and application, and knew forms and records of parliament so well, that he was capable both of lengthening out and of perplexing debates." All who are conversant with the bitter prejudices of this historian must be aware that he would give as little praise to the subverter of his faction as he could possibly help; and the reports of the debates, meagre and scanty as they are, prove that Mr. Harley was entitled to a far larger measure of applause than this. Eloquent he was not, neither did he aspire to a high range of oratory, but he proved himself a ready debater and thorough man of business.[c] He displayed his tact and address as an opposition leader in his bill for excluding placemen from the House, in his constant reproduction of the treason bill, and the act for limiting the duration of parliaments, in his denunciation of the lavish gifts of the crown, in his constitutional appeals against Sir John Fenwick's attainder, in his invectives against a standing army—that standing topic of grievance for half a century to all orators out of place.

[c] Even the partiality of Swift could not subscribe to Mackey's report, that Harley was skilled in most things, and very eloquent, but dashed in the margin "a great lie!" Mackey continues "would make a good chancellor or master of the rolls, a very useful man, of low stature and slender." Swift subjoins, "He could not properly be called eloquent, but he knew how to prevail in the House with few words and strong reasons."

But it was in the character of financier that he exercised paramount authority in the House, with no rival but Montague, and still more regarded. He is mentioned as moving committees of ways and means, while Montague still continued to hold the office of chancellor of the exchequer. "For these two years past," writes Mr. Vernon, in 1699,[d] "he could have given what turn he pleased to the taxes, and have made things worse than they were." The trimming councils of William could not refrain from an attempt at conciliation, and installed the popular committee-man in the chair of the House. He preserved his speakership in the next parliament against the wishes of the crown, and was chosen speaker of a third parliament, an honour then unprecedented, on the accession of Queen Anne. Though whiggish councils still predominated, his abilities, influence, and moderation, were thought of such exceeding value, that for the last year of his remaining speaker he received the seals as secretary of state, and was reputed by courtesy, as in fact, the leader of the House of Commons. But, even when admitted to the cabinet, he was not cordially trusted by his colleagues, who doubted the sincerity of their versatile convert, and dreaded his aspiring ambition. He was accused of coquetting with the tories, through his friends Bromley, Hanmer, and Freeman, and of scattering hints, that the queen had become wearied with the tyranny of the whigs, and longed to be delivered. His intimacy with her majesty, to which 'the intriguing cousin' Mrs. Masham introduced him, his easy, polite, conversation, and insinuating address, installed him high in the queen's favour, and supported him against the suspicions of the straight-

[d] Vernon's Letters by James.

forward Godolphin, and the distrust of the wary Somers. An amusing glimpse into their cabals is afforded in Lord Cowper's diary.

"January 6, 1705-6, Sunday. I dined next day on an invitation with Secretary Harley. Present, the Duke of Marlborough, the Lord Treasurer (Godolphin), Lord Halifax, Mr. Boyle, Chancellor of the Exchequer, Mr. St. John, and Lord Sunderland; Lord Somers, I understood, had been invited but did not come, being gone to his house in the country, but Secretary Harley said he had sent him a kind letter to excuse his absence. I believed, when I saw the company, this to be a meeting to reconcile Somers and Halifax with Harley, which was confirmed to me, when, after the Lord Treasurer was gone (who first went) Secretary Harley took a glass, and drank to love and friendship and everlasting union, and wished he had more Tokay to drink it in: (we had drunk two bottles, good, but thick) I replied his white Lisbon was best to drink it in, being very clear. I suppose he apprehended it, as I observed most of the company did, to relate to that humour of his, which was never to deal clearly and openly, but always with reserve, if not dissimulation, or simulation, and to love tricks, even when not necessary, but from an inward satisfaction he took in applauding his own cunning. If any man was ever born under the necessity of being a knave, he was."

This is the painting assuredly of a determined foe, but how faithful a likeness does it give of the treasurer's dislike, evinced in his haste to be gone, of Lord Somers' wary distrust, and of the chancellor's complacent chuckle over his own sly inuendo! Between men who entertained such feelings there could exist no friendliness or union: the hope was merely that

after-dinner rhetoric, which could deceive no one, and he parted from his colleagues in a spirit of rivalry, which might soonest supplant the other. The first treacherous blow was dealt by the whig cabal. One Gregg, a needy Scotchman, clerk in the foreign office, had been employed by Harley to translate the foreign correspondence, as he was himself unversed in the French language, and took advantage of his culpable carelessness, in leaving state papers loose and exposed, to convey important intelligence to the French minister. The treason was soon detected, and the traitor thrown into Newgate. There Lord Sunderland visited him, with offers of safety on condition that he would implicate Mr. Harley. The man had not sunk low enough in baseness, to become the perjured tool of a virulent faction, and on the scaffold left a declaration in writing with the sheriffs, of his patron's entire innocence. Such sharp intriguing on the part of his colleagues produced reprisals, and the mine was already sprung by the counter-plotter for their destruction, when Godolphin insisted peremptorily on his dismissal. Had not Harley's prudence acquiesced, the queen would have refused to comply, but he perceived that his hour was not yet come.

In Vernon's letters we see the quiet ease with which the secretary made his bow, and the rancour of his late colleagues. "Feb. 10, 1707-8. Mr. Secretary was in the House a little while, and delivered a message or two from her majesty, recommending the case of the Londonderry people, which he moved should be referred to a committee, and made this observation upon it (in his stiff, dry way), that it sometimes happened, those who served the public best were least considered; and soon after he went away.—

I can't but say that the little gentleman who is gone off the stage, was almost capable of filling the whole world with suspicions."

Driven from the cabinet in February, 1707-8, Mr. Harley continued for the two following years the secret confidant and underhand adviser of the crown, setting that precedent of back-stairs influence which was watched with such national jealousy in succeeding reigns. As the friend of the national church, ever too strong for her enemies, and which ministers laid themselves open to the popular charge of assaulting, he patiently awaited his opportunity, accelerated by their own infatuation, and hurled them from power. The real head of the new tory administration, he sought to restore peace and economy to an exhausted state, and, in the moderation of his counsels, went before the age. His conciliating policy had cooled the affection of his more zealous supporters, when a lucky and well improved adventure restored the fortunate viceroy to more than pristine favour.

In March, 1711, Antoine de Guiscard, a French refugee, was brought before the privy council, to answer some charge of treason into which a profligate poverty had betrayed him. Maddened by detection, and eager to wreak his vengeance on any member of the ministry, he stabbed Harley, who chanced to be sitting within reach, twice in the breast with a penknife. The feelings of the nation were outraged by this attempt at assassination, and, with awakened fondness, rejoiced at his escape from a foreigner and a papist. Addresses of congratulation were poured forth from all quarters of the kingdom. An act was unanimously passed to make an attempt on the life of a privy councillor, felony, without benefit of clergy. The poets

of that Augustan age, to whom he was a generous friend and patron, vied with each other in hymns of triumph. On his convalescence, at the end of seven weeks, he was honoured in the House of Commons with an address of congratulation. The speaker, Mr. Bromley, though personally hostile, could not resist the popular enthusiasm, but spoke in terms of the most fervent eulogy.

Mr. Harley expressed his gratitude with more grace than might have been anticipated from his usual confused manner of delivery. "Mr. Speaker, the honour this House hath done me, which you have worded in so obliging a manner, is a sufficient reward for the greatest merit: I am sure it so far exceeds my deserts, that all I can do or suffer for the public, during the whole course of my life, will still leave me in debt to your goodness. The undeserved favour I have received this day is deeply imprinted in my heart, and whenever I look upon my breast, it will put me in mind of the thanks due to God, my duty to the queen, and that debt of gratitude and service I must always owe to this honourable House, to you, Mr. Speaker, and to every particular member." After introducing his scheme for the South Sea trade, then highly applauded, Mr. Harley made his parting bow to the House of Commons. His indulgent sovereign crowned the national testimony by creating him Earl of Oxford and Mortimer, the proudest titles in English heraldry, and placing in his hands the staff of Lord High Treasurer. Within a few weeks he grasped the richest and most coveted trophies of successful ambition, the white wand, an earldom, and the George!

"This man," writes Swift,[c] "has grown by perse-

[c] Swift's Diary.

cutions, turnings out, and stabbings;" he might have added, by his talents as a clever politician and subtle intriguer, by his address as a court favourite, and chamber-gossip with the queen. For three years his fortune culminated. The wand of Circé, the ring of Gyges, the lamp of Aladdin, all the symbols of felicity, as recorded in history or fiction, seemed to lie ready to his touch. He stood at the queen's right hand, as one whom she delighted to honour, and bore the cup of maintenance of the state. He commanded triumphant majorities in the one House, and caused twelve peers to be created in one day—a *coup d'état* unexampled—that he might overawe the hostility of the other. The members of convocation presented addresses of congratulation; the three denominations still cherished a jealous fondness for their former pupil; the idol of Oxford, he was not unpopular at Hackney. By the country gentlemen, though blamed for not going far enough, he was trusted as "honest Robin." On the Royal Exchange, his name to a proposal was deemed a sufficient letter of credit. At the court he was the centre round which all dignities revolved, and was hailed by a nation sated with victories as the restorer of peace.

At the close of three years, however, as if by the spell of an enchanter, this fair prospect became totally overcast, and all his visions of prosperity proved false and hollow. His treaty of Utrecht was denounced as a national disgrace and obloquy; the clauses relating to commerce were pulled to pieces, and himself pelted with the fragments.

The following lines of a popular ballad[1] faithfully

[1] Bolingbroke's Letter to Sir W. Wyndham. In the Somers Tracts.

reflect the feelings of an estranged and fickle people:

"Oh! the wretched peace-makers,
Bob, Harry, Arthur, Matt,
Who 've lost our trade, our friends betrayed,
And all to serve a chamber-maid.

Marlborough the great our foes did defeat,
May they still by him be banged;
May the skip be stript, and the drawer whipt,
But Bob and Harry hang'd!"

The more ignominious punishment being reserved for Arthur Moore, who had once acted as a footman, and Matt Prior, the son of a vintner, Haman's fate was allotted to Bolingbroke and Oxford. According to the sweet voices of the multitude, hanging was too good for the treasurer.

The March and October Clubs cried shame upon his ambiguous, doubtful, vacillating policy; his South Sea scheme tottered down, a ruinous failure; the high church idolaters transferred their homage to Ormond and Bolingbroke; the queen discarded her careless and presuming favourite; the partizans of the exiled family hated him as the author of their ruin. There arose a House of Commons which knew their once leader only to visit him with articles of impeachment; the Lords allowed their brother peer to languish two years in prison. He escaped the penalties of his trial by a quirk, and, unheeded, sunk into powerless safety.

The abilities of a statesman so distinguished, and who experienced such strange variations of fortune, have formed the subject of wild exaggeration, as far below the fanciful eulogies of courtiers and contemporaries, as superior to the disparaging, almost contemptuous, criticisms of later times. When Swift

describes the lord treasurer in the language of a poet-laureat, as "by far the greatest minister he ever knew," he strays as widely from the truth as a recent historian, Lord Mahon[h], who represents him "as one of the most memorable instances in history, to prove how possible it is to attain both popularity and power, without either genius or virtue." In the highest sense of the term, he was void of genius, but had decided talents as a minister of the crown, and numerous virtues, both political and moral, overshadowed, indeed, by heavy defects, which marred the features of his policy and accelerated his fall.

Not the least vexatious were his dilatory habits and tricks of procrastination. The postmaster complained that the secretary constantly kept the post-office open an hour beyond closing hours for the state letters. Prone to indolence and indecision by nature, he became the more addicted to these foibles by the peculiarity of his position as treasurer; and, undetermined what to do, did nothing more than recline on the chapter of accidents. "He that knows not whither to go," was the comment of the sententious Johnson, "is in no haste to move[i]. Lord Oxford, who was perhaps not quick by nature, became yet more slow by irresolution, and was content to hear that dilatoriness lamented as natural, which he applauded in himself as politic." He prorogued parliament eleven times, and suffered the negotiations at Utrecht, too long spun out, to be rendered odious by repeated postponements, to make the heart of the nation sick with hope deferred, before their full demerits were revealed. The suspicion, conceived not

[h] Mahon's History of England, vol. i.

[i] Dr. Johnson's Lives of the Poets.

without reason, that St. John wished to go too far, by secret articles of treaty, naturally increased his tardiness and aversion from all precipitate measures. Afraid of an ambuscade at every step, and not assured as to the course into which his more daring colleagues meant to hurry him, he refused to be forced forward, and stood still. They murmured at this dead stop with ludicrous impatience.

"Cunctando," muttered Bolingbroke, "is a sad device, by Monk's leave" (an allusion to General Monk's lingering). "I have learned," writes Prior, in his lively, bantering way, "that, in Britain, at least, doing little is better than doing much, and doing nothing is better than either." Another cause for this fatal habit arose from the treasurer's attempting too much. "Eltee cannot do all himself," writes Swift, using his quaint abbreviation[k], "and will not employ others, which is his great fault." He essayed in vain to shame him out of his infirmity, by the modern version of an old fable:—

"Atlas, we read, in ancient song,
Was so exceeding tall and strong,
He bore the skies upon his back,
Just as a pedlar does his pack;
But as the pedlar, overprest,
Unloads upon a stall to rest,
Got Hercules to bear the pile,
That he might sit and rest the while.
Suppose, then, Atlas ne'er so wise,
Yet, when the weight of kingdoms lies
Too long upon his single shoulders,
Sink down he must, or find upholders."

But even Swift's raillery was inefficacious to root out a besetting sin entwined with Oxford's nature,

[k] L. T., for lord treasurer, pronounced Eltee.

and which he had discovered soon after his introduction. "His lordship has long designed an answer to the letters he received from the bishops, and has said ten times he would do it to-morrow[l]." Many years afterwards he was told himself by the earl's private secretary—"Lord Oxford has received your letters: he will answer them, but not to-day, 'sicut olim,' nothing can change him." In the crisis of his fate, as we learn from the Diary, it was just the same[m]. "April 7th, 1713. I dined with the lord treasurer, and though the business I had with him is something against Thursday, when the parliament is to meet, and this is Tuesday, yet he put it off till to-morrow. I never saw his fellow for delays. To-morrow will be a very important day; all the world will be at Westminster. Lord Treasurer was easy as a lamb." Immersed in too much business for a man of the most exact habits to perform, the time that could not comprehend unavoidable engagements he dissipated in such as were superfluous. He used to send trifling verses from court to the Scriblerus Club, and would come and talk idly almost every day and night with them, even when his all was at stake. In private life, and to his friends, he was equally the dupe of the morrow, nor could ever begin the business of the week on the Monday morning. The simple act of sitting for his picture for a friend, he delayed till the opportunity was gone. Swift writes to the earl, October 1722, "I have now been ten years soliciting for your picture, and if I had solicited you for £1000 (I mean of your money, not of the public), I could have prevailed in ten days." Nor did he

[l] Swift's Letter to the Archbishop of Dublin.
[m] Journal to Stella.

prevail at last, for death interfered with the old earl's contemplated fulfilment of his promise. "I have often heard my father say," his son writes from Wimple, "that he did design to sit for you, but did not. I shall certainly take care that you shall have a picture."

There is reason to surmise that this inveterate procrastinator was even more insincere than is expected in a premier. He had been trained to politics in the school of Machiavelli, and was familiar with artifice in every shape and form. The reverse of his predecessor Godolphin, who only spoke to fulfil, he appears to have been a perfect courtier in the facility with which he made and the recklessness with which he broke a promise; one of Wharton's porch, who scarcely ever refused, and still more rarely performed a favour, the single and splendid exception being with respect to literary men. He wore his velvet mask so constantly as never to let the features of his real policy be seen, and seemed rather to enjoy than rectify the mistakes into which his disguise betrayed the unwary. "Among the many qualities I have observed in the treasurer," writes Swift, "there is one that is something singular, that he will lie under an imputation, how wrong soever, without the pains of clearing himself to his nearest friends, which is owing to great integrity, great courage, or great contempt of censure." Walter Scott ascribes this weakness, with more reason, to that reserve and retenue which, under all modifications, formed the leading features of his character[n]."

The Duchess of Marlborough, an adept in spelling backwards the qualities of all opposed to her husband,

[n] Scott's Life of Swift.

has heightened the shades of Oxford's duplicity in the following caricatured but still clever likeness[o]. "He was a cunning and a dark man, of too small abilities to do much good; but of all the qualities requisite to do mischief, and to bring on the ruin and destruction of a nation. This mischievous darkness of his soul was written in his countenance, and plainly legible in a very odd look, disagreeable to everybody at first sight, which, being joined with a constant awkward motion or rather agitation of his head and body, betrayed a turbulent dishonesty within, even in the midst of all those familiar airs, jocular bowings, and smiling, which he always affected, to cover what could not be covered."

An hostile but somewhat less furious partizan of the opposite faction has given a description of his perfidious smoothness[p]. "He was, indeed, very civil to all who addressed him, but he generally either spoke so low in their ear, or so mysteriously, that few knew what to make of his replies, and it would appear he took a secret pleasure in making people hang on and disappointing them." Kindlier motives may be attributed by more partial observers for this trick of deception, but whatever may have been the motive, the fact is recorded to his extreme discredit, that he promised the same place to five different candidates at the same time. In his contemplation, the duty of a prime minister was as arduous as that which Sir Henry Wotton ascribes to an ambassador, "to lie for the good of his country." A fondness for trickery and finesse was through life Oxford's cardinal sin. The great rhetorician, his rival, might have taught him

[o] Conduct of the Duchess of Marlborough.

[p] The Lockhart Papers.

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that "cunning is but the low mimic of wisdom; that dissimulation and simulation—those two seats of cunning—are like the alloy mingled with pure ore, of which a little may be necessary, and will not debase the coin below its proper standard, but that if more than this little be employed, the coin loses its currency, and the coiner his credit." Harley passed off his false counters among all classes and parties—jacobites, whimsicals, high-flyers, low churchmen, and dissenters,—till they became rejected by all, as of too light weight.

How much the last were deceived and disappointed is admirably illustrated in Arbuthnot's humorous History of John Bull. Jack the Presbyter is there persuaded by his friends to hang himself, in expectation that Sir Roger (the name given to the Earl of Oxford) would interpose and cut him down; but Sir Roger passes by without taking any notice, and suffers Jack to hang on, notwithstanding his winks and contortions of countenance. The satirist alludes to the premier's permitting Lord Nottingham's bill against occasional conformity to pass without opposition. It would have been debated in the House of Commons, but for a firm persuasion, universally entertained, that, by the influence of their former champion, its fate was sealed in the Upper House. The queen, however, was, inveterate, and Oxford treacherous; and the obnoxious measure became law by a legislative sleight of hand.

The high church party might have complained of similar *tracasserie* in a man whom his enemies alleged to be

"True to no cause, to no religion true."

At Sacheverell's trial, he feasted one day with orthodox divines, and fasted the next with non-conforming

zealots; nay, carried his principles of tolerance so far as to unite at his table (an indifference much censured by that intolerant age) churchmen and dissenters. A trimmer on principle, a trickster from policy, he disclaimed alliance with both factions, and seemed to wish "a plague on both their houses." "The violent whigs," he wrote to Godolphin[q], "are doing their best to turn the pyramid on its point, but I hope your lordship will rescue us from the violence of either party; and I cannot forbear saying, that I know no difference between a mad whig and a mad tory; and as for the inveteracy of either party—'Iliacos intra muros, peccatur, et extra.' It is a very common thing to match one malicious story from a tory with another from a whig." His principles of moderation may account for this aversion, no less than his adroit, subtle, and insinuating character. "I dread," he writes again, "the thoughts of running from the extreme of one faction to another, which is the natural consequence of party tyranny, and renders the government like a door which turns both ways upon the hinges, to let in each party as it grows triumphant." But, however successful this neutral and ambidexter policy might be for a season, the result of his over-curious refinements and too complicated intrigues was most disastrous.

"After six years of power," says Lord John Russell[r], "although neither thwarted by hostile influence in the cabinet, nor misfortunes abroad, he contrived to break up a powerful party, of which he was the leader, and to alienate at once his sovereign, his friends, the adherents of the pretender, and those of the House of Hanover." This statement is not wholly

[q] Coxe's Life of Marlborough. [r] History of Europe.

true. He *was* thwarted in the cabinet; and the political intimacies of St. John and Harcourt could scarcely be deemed friendships. But the windings of his tortuous policy led him to the foot of the scaffold, and might not have ended even there had the Duke of Marlborough been above imputation. The cordial intimacy that once subsisted between them had been cooled down into aversion on the part of the great general, by hints of machinations, the fear of double-dealing, a sense of constant distrust, and changed at length into such sentiments of concentrated and persevering hate, as might have been thought strange and foreign to his gentle nature. The progress and severance of this political friendship, as disclosed in their correspondence, gives an amusing insight into the character of both. Before and after obtaining the seals, Mr. Harley compliments the great captain on his triumphs in language not untinged with flattery:— "You have, my lord, exceeded our very hopes and expectations, and no person could have done it but yourself. What I took the liberty to say to the queen upon this occasion is what I believe in my soul, that no subject in the world has such a prince as the queen, and that no prince in the world hath such a subject as your grace." And again: "May your grace still go on prosperously, the best general to the best queen, and engaged in the best cause. You have united the characters of Scipio and Hannibal; your proceedings are so swift, it is scarce possible with thought to keep pace with them."

The duke in reply thanks the secretary warmly for his defeat of the Occasional Bill, and all seems frank and cordial. But in the following year the saturnine Godolphin insinuates to Marlborough his

suspicions of intrigues, and, mentioning that Harley was pointed at from all quarters, adds, "I doubt so much smoke could not come without some fire." His doubts were soon exchanged for certainty, and the fraudulent apologies of an undermining colleague met with his brief indignant rejoinder: "I have received your letter, and am very sorry for what has happened, to lose the good opinion I had so much inclination to have of you; but I cannot help seeing nor believing my senses. I am very far from having deserved it of you. God forgive you."

The disingenuous secretary was stripped of official power, but contrived, by his secret influence with the queen, to thwart the wishes of the generalissimo, whose grasping ambition was extravagant enough to seek to have the office conferred upon him for life. "As often," writes Godolphin[s], "as the necessary measures for compassing the success of the war are proposed to her majesty, there is a lion in the way." At the moment of Harley's triumphant return to power, the irritated general confesses his hatred to his termagant duchess in terms of heartfelt bitterness.

"September, 1709.—You may live in the manner which you may find most easy to yourself, for no behaviour of yours or mine can ever create any tender concern in the queen for us. This villainy has been insinuated by Mrs. Masham, by the instigation of Harley, who certainly is the worst of men." In the frenzy of the same month, Mainwaring writes "of the ugly chambermaid that has betrayed her only friend to a papist in masquerade (Duke of Shrewsbury), and to the most arrant, tricky knave in all Britain (Harley), that no man alive can believe any more than

[s] Coxe's Marlborough.

an Oates or a Fuller." The scurrilous violence of his retainers does not appear to have been displeasing to Marlborough, who, however, determines with his usual prudence, to capitulate, that he may retain his command. "I shall never fail making use of the cypher, believing Mr. Harley has it in his power and inclinations to open my letters at the post-office. I shall continue with the army; I detest Mr. Harley, but think I have lived long enough in the world to be able to distinguish between reason and faction."

In the correspondence that ensued between these two admirable dissemblers, the duke assumed the tone of an ardent well-wisher, and the treasurer that of an injured man. "And now, my lord, since I must speak of myself, I can say no more than this, that I shall leave it to my actions to speak for me, and so give your grace demonstration that I am the same man toward you as I was the first day I had the honour of your acquaintance; and I shall as heartily promote everything under your care as I did, or would have done, in any time since I have been known to you." Lord Stair, whom the duke had sent to mediate on his behalf, complained of being put off by Lord Oxford from day to day, and sent back with a bamboozling letter; yet he wrote with all the suavity of a courtier: "My lord, I desire this may serve to prepare you to receive me such as you would desire to find me, full of gratitude for the several marks of your friendship this campaign, and of resolution to do all that lies in my power to cultivate it." Having written again to complain of libels, of which the duke was remarkably sensitive, the lord treasurer rejoined: "I do assure your grace I abhor the practice as mean and disingenuous. [He did all in his power to encourage

Swift.] I have made it so familiar to myself by some years' experience that, as I know I am every week, if not every day, in some libel or other, so I would willingly compound that all the ill-natured scribblers should have licence to write ten times more against me, upon condition they would write against nobody else."

A ludicrous proof of the truth of this indifference is told by Mainwaring, the literary follower of the Duchess of Marlborough. "Lord Oxford told me the duke must not mind libels; that he himself was called rogue every day in print, and knew the man that did it (meaning, I doubt, me), yet he should live fairly with him." But, though the treasurer had no inclination to maintain a friendly intercourse by letter, he shrunk from a private interview, and only met the military hero at the queen's command, when he returned to London in December 1710, escorted by a tumultuous procession. When he again revisited England in the winter of the following year, all the ministers paid their official visits, except the treasurer, who sent him a message of compliment, desiring that their first meeting might occur, as if by accident, at the council or the court, after which he would pay him the usual visit. In escaping the uneasiness of a first interview in private, the treasurer spared the feelings of both. Why should they cumber themselves with false masks, or speak in feigned accents of friendship, when there were no spectators present to applaud or criticize, and they could not deceive each other?

When they did meet, according to the treasurer's arrangement, the reserve was mutual, and well it might be, for, on the last day of the year, in the same Gazette which contained the creation of twelve additional peers, came forth the peremptory and memor-

able announcement, "The Duke of Marlborough is dismissed from all his employments."

Prince Eugene alluded wittily to this dismissal. Dining with the treasurer, who declared that "he looked upon that day as the happiest of his life, since he had the honour to see the greatest general of the age in his house," the prince quickly retorted, "that if it were so, he was obliged to his lordship for it!" If he were the greatest general, what had become of Marlborough?

After this final rupture, the good offices of the premier were confined to the procuring his grace a passport for those foreign lands from which he only returned on the day of the queen's death. From the treasurer's letter to Mainwaring, it would appear as if a mighty obstacle had been thrown in the way of a favour so slight, that it would now be deemed a matter of course. [t] "Sir, I desire you will, with my most honourable service, assure *our friend*" [the italics are ours] "that there have been endeavours from all sides to obstruct granting the pass desired, yet I shall have the honour to put it into his hands. When I undertook it, I resolved not to be deterred from finishing it."

Though some detected letter of the duke's to the pretender is supposed to have saved the earl from a trial, and there are strong reasons for believing that a secret negotiation was on foot between these inveterate intriguers at the time when the duke sailed from Ostend, he joined in all hostile votes and protests against the fallen treasurer, and on the verge of fatuity pursued to the death the plotting councillor, whose cabals had alone prevented him, as he might not unreasonably believe, from dictating peace at the gates of Paris.

[t] Coxe's Correspondence of the Duke of Marlborough.

For the enmity of another great man, still more pregnant with bane to his living interests and memory—the hate of Lord Bolingbroke—the treasurer was perhaps as much indebted to his station and good fortune, as to his failings, though the jealousy he displayed of an ambitious rival, and his reluctance to entrust him with even a small share of patronage, ministered fuel to his aversion. Had the treasurer been more frank and open, less suspicious of his colleague, less retentive of command, easy, communicative, and generous, had he shared, instead of engrossing, the good things of office, so completely, that St. John could find no better place to bestow on his private secretary than some petty appointment during pleasure in the West Indies[a], this repugnance might have been subdued; but the disparity in their characters was too marked to admit of any feeling that partook of real friendship.

The one, in his love of literature and the arts, presents some points of resemblance with the Pericles; the other, in his magnificence, recklessness, and ability, may be most aptly assimilated to the Alcibiades of the classic age: or, to draw the comparison from more recent times and country, the one was the Mazarin and the other the Richelieu of his native land. The policy of the one was peaceful and circuitous, the ambition of the other direct and daring. Both were state intriguers, but the fearless machinations of St. John aimed at restoring the Stuart, and reigning viceroy over him; the politics of Harley might seem to waver for a time in the direction of St. Germain, according to the inclinations of his royal mistress, but

[a] St. John's Letter to Lord Raby.

permanently inclined to the House of Hanover. The one, careless of money, was never worth £1500 in the world beforehand[v], and winked at innocent jobs; the other, rich and thrifty, seemed to watch over the nation's purse with even more cautious vigilance than his own. The one was so open, that his love and hate were legible in his countenance; the other wore that *volto sciolto* look of mystery, which no physiognomist could interpret; the one was as greedy, as the other retentive, of power. In genius, eloquence, energy, the lord treasurer was of a lower form; in prudence, morals, tact, judgment, far superior to his libertine associate.

There had been an outward show of friendship between them since the time that St. John accompanied Harley on his retirement from office, and though the haughty spirit of the secretary at war was chafed and fretted, when he found on their restoration no higher place designed for him than his old and comparatively inferior situation, he made no public demonstration of displeasure, and the negotiations for peace began in such seeming amity, that they were termed the "sorcerer and his familiar[w];" and Madame de Torcy, anxious to conciliate, united their healths in the toast of "A Harré et à Robin." The penknife of Guiscard, when St. John had declined a private interview, pointing at him as the primary object of his murderous attack, cut the bond of amity. Before the consequences could be foreseen, the secretary expressed himself as a friend.[x]

"It is impossible to express to you the firmness and magnanimity which Mr. Harley showed upon this

[v] St. John's Letters. [w] Prior's Letters. [x] Letter to Lord Raby.

surprising occasion. I, who have always admired him, never did it so much; the suddenness of the blow, the sharpness of the wound, the confusion which followed, could neither change his countenance, nor alter his voice. You will wonder when I tell you, that the whigs in the House of Commons, on this occasion, which demanded the indignation of every man who pretends to common humanity, behaved themselves simply; but when the matter came before the House of Lords, they left their seats, and, since they could not hang Mr. Harley, they were resolved to show no resentment to Guiscard for stabbing him."

But, when St. John found that the lucky treasurer had been wounded into popularity, that his recovery had been made the object of a nation's prayer, and that the secretary was overlooked, his uneasy jealousies and moody vexation could no longer be suppressed. "Mr. Harley, since his recovery, has not appeared at the council or at the treasury at all, and very seldom in the House of Commons. We, who are reputed to be in his intimacy, have few opportunities of seeing him, and none of talking freely with him. As he is the only true channel through which the queen's pleasure is conveyed, so there is, and must be, a perfect stagnation, till he is pleased to open himself, and set the waters flowing." Conscious of his own superior ability, exulting in his power as an orator, the dictator of the social circle, which he ruled with a sort of magical charm, St. John might justly murmur at being relegated to an inferior office, and envy the stab of his ennobled chief. "See, what a rent that fatal dagger made." His reflections on the promotion that

followed are clothed in the cold garb of philosophy, and seem almost prophetic of estrangement.

"Our friend, Mr. Harley, is now Earl of Oxford, and high treasurer. This great advancement is what the labour he has gone through, the danger he has run, and the services he has performed, appeared to deserve. But he stands on slippery ground, and envy is always near the great, to fling up their heels, on the least trip which they make. The companions of his evil fortune are most likely to be the supporters of his good; and, I dare say, he makes this a maxim to himself, for, though he often wants that grace and openness which engage the affection, yet, I must own, I never knew that he wanted either the constancy or the friendship which engages the esteem."

As if to nurse his spleen at the undue elevation of his rival, St. John found himself compelled to force his way into the House of Lords, and could not extort a tardy title, even a barony, till the spring of 1712. In writing to the Earl of Stafford, he makes no secret of his complaints and indignation. "To make me a peer was no great compliment, when so many others were forced to be made, to gain a strength in parliament, and, since the queen wanted me below stairs in the last session, she could do no less than make me a viscount, or I must have come in the rear of several, whom I was not born to follow. I confess to you that I felt more indignation than ever in my life I had done; I remain cloathed with as little of the queen's favour as she could contrive to bestow." The writer's jealousy of the white wand, the superior title, and the blue ribbon, plainly peep forth, in his hints to the Duke of Shrewsbury, "of my lord treasurer's

tedious illness, and his unreasonable proportion of business, when he is well. No principle of government established and avowed—nobody but my lord treasurer, and he cannot be in every place, and speak to every man—able to hold out hopes, and fears, or give a positive answer to any one question." A fortnight before the final explosion, he gives forcible utterance to his aversion and alarms. "I have some reason to think that some people, who would rather move heaven and earth than either part with their power or make a right use of it, have lately made overtures to the Duke of Marlborough. I have thought things never could be as they are, were not our leader in secret with our enemy; and I believe there is hardly a whig or tory in Great Britain that is not of the same opinion. The utmost I could do has been little enough to ward the stabs that were levelled at me, and to discover the mines daily wrought under my feet."

His flame of resentment, long smouldering, at length burnt to such a white heat, that Bolingbroke frankly confessed, "if the question were between the total ruin of his party and reconciliation with Oxford and safety, he would not hesitate to choose the first alternative." His wish was gratified—he effected Oxford's ruin, after recriminations and reproaches, and sealed his own. But he cherished his hatred in exile and disgrace, with an inveteracy which misfortunes could not soften nor death subdue. The secret of this vindictiveness may be easily explained. Lord Oxford came out of the "burning, fiery, furnace" of persecution, almost unscathed. He had with unshaken constancy awaited his trial, and been unanimously acquitted for want of accusers; though banished the

court, he resumed his seat in the House of Lords, supported his party with voice and vote, and preserved, in their integrity, his rights, fortune, and fame. How totally the reverse of this was the fate of his baffled antagonist! Condemned by his guilty terrors to an ignominious flight—banished—attainted—a disgraced refugee in the court of the pretender—constrained, after eight years' wandering, to purchase his return to England from the king's mistress, but not permitted to re-enter the House of Lords, he spent the last bitter years of a wayward life in violent but futile efforts to win back his ascendency; to become something more than the masqued champion, the anonymous libeller, the proscribed partizan. But for Lord Oxford's cold obstructions and perpetual impediments, he might have changed a dynasty, and been to the restored Stuart what the Duke of Albemarle was to Charles, and, with his superior endowments, the foremost man of Britain. In the bitterness of crushed hope, he cursed the memory of his betrayer.

When Swift contemplated his history of the four last years of Queen Anne, and the son of Lord Oxford, with a pardonable anxiety, expressed some uneasiness lest the biographer should disclose any unfavourable traits of his father's character, the shrewd divine points out what should be the true source of his distrust[y]. "Lord Oxford is in the wrong to be in pain about his father's character, or his proceedings in his ministry, which is so drawn, that his greatest admirers will rather censure me for partiality; neither can he tell me anything out of his papers which I was not then informed of, nor do I know anybody but yourself, who could give me any more information,

[y] Swift's Letter to Erasmus Lewis.

than what I then received. I believe you know that Lord Bolingbroke is now busy in France, writing the history of his own times, and how much he grew to hate the lord treasurer you know too well, and I know how much Lord Bolingbroke hates his very memory. This is what the present Lord Oxford should be in most pain about, not about me."

Swift was right in his forebodings. The black characters, graven hard and deep, are now the most legible on his father's head-stone. The rancour of a good hater overflows in Bolingbroke's private correspondence with the dean. "You are worse than peevish, you are unjust, when you say that it was either not in the power or will of a minister to place you in England. I know but one man who had power at that time, and that wretched man had neither the will nor the skill to make a good use of it. We talk of characters, match me that if you can among all the odd phenomena which have appeared in the moral world!" To the jaundiced eye of this prejudiced writer, even the physical defects of Oxford were all assumed and a part of his disguise. "Your deafness must not be a hackney excuse to you, as it was to Oxford."

But when the historian came to paint for posterity, he drew his whole-length libel with a force and vigour, which compel perusal, but too disagreeably like not to show the practised hand of a 'hostile limner'. "He was the first spring of all our motions by his credit with the queen, and his concurrence was necessary to everything we did, by his rank in the state: and yet, this man seemed to be sometimes asleep and sometimes at play. He neglected the thread of business,

[1] Letter to Sir W. Wyndham.

which was carried on, for this reason, with less despatch and less advantage in the proper channels, and he kept none in his own hands. He negotiated, indeed, by fits and starts, by little tools and indirect ways, and thus his activity became as hurtful as his indolence. No good effect could flow from such a conduct. The very work (the peace) which ought to have been the basis of our strength, was in part demolished before our eyes, and we were stoned with the ruins of it! Whilst this was doing, Oxford looked on, as if he had not been a party to all which had passed, broke now and then a scurvy jest, which savoured of the inns of court and of the bad company in which he had been bred, and, on those occasions where his station obliged him to speak of business, was absolutely unintelligible. Whether this man had any determined view, besides that of raising his family, is, I believe, a problematical question in the world; my opinion is, that he never had any other. The jacobites and tories were alike amused. The pretender was to attempt nothing, his partizans were to be still. Oxford undertook for all. The only considerable thing he brought about after the peace was the marriage, and by it an accession of riches and honour to a family whose estate was very mean, and whose illustration before this time I never met with anywhere, but in the vain discourses which he used to hold over claret. If he kept his word with any of the parties, it must be supposed that he did so with the whigs."

The author of this admirable satire, apparently oblivious of his own extravagant hopes and deep humiliation—of his waiting with the seals, hour after hour, at the door of an outer chamber, and knocking

in vain for admittance—of his escape by night in disguise—of the attainder which "tingled in every vein," and the ignoble repulse to his overtures for reconciliation—exults at the grateful remembrance of the treasurer's disappointment. "He took for granted that, by his secret negotiations at Hanover, he should have as much favour in George Ist's reign as he had enjoyed under that of the queen. He answered to Lord Dartmouth and to Mr. Bromley, that one should keep the privy-seal and the other the seals of secretary; and Lord Cowper makes no scruple of telling how he came to offer him the seals of chancellor. When the king arrived, he went to Greenwich with an affectation of pomp and splendour. Against his suspicious character, he was once in his life the bubble of his credulity,—he was received with the most distinguished contempt." The malignity of the commentator was fed by an imagination so fertile, and a diction so terse, that his images fasten themselves on the memory, as when he supposes, "that Lord Oxford grew less by his elevation, like a little statue placed on a mighty pedestal;" or, where he says, that "nature meant to make a spy of him, or at most a captain of a company of miners, but fortune, in one of her whimsical moods, made him a general;" or when he writes the strong antithesis, "When anything was to be got, he could wriggle himself in—when any misfortune was to be avoided, he knew a way to wriggle himself out." The readers of this noble historian, delighted with the sparkling satire, have almost unconsciously imbibed a portion of the venom. The whole race of modern annalists have followed their leader with credulous fidelity, and seem to be a generation lineally descended

from St. John and the Duchess of Marlborough, adopting, in their intensity, the prejudices of both, and aspersing the character of their deadly foe with all the poetry of the satirist and something of the virulence of the shrew.

It must be confessed that the death-struggle between Oxford and Bolingbroke brought out in full relief, and exposed in the strongest light, the moral shades and defects in his character. "The Dragon," says Arbuthnot, in his playful manner, "meets his antagonist every day at the cabinet. They often eat, drink, and walk together, as if there was no sort of disagreement, and, when they part, I fear they give one another such names as nobody but ministers of state could bear without cutting throats.... He dies hard. He is now kicking and cuffing about him like the devil, and you know parliamentary management is his forte." Again, "July 10. The Dragon holds fast with a dead grip, the little machine his staff. If he would have taken but half so much pains to have done other things, as he has of late to exert himself against the Esquire (Bolingbroke), he might have been a Dragon, instead of a Dagon. I would no more have suffered and done what he has than I would have sold myself to the galleys!" A week later, the satirical but honest Scotch Doctor writes to a brother of the Kit-Cat: "My Lady Masham has bid him defiance, notwithstanding, he visits, cringes, flatters, &c., which is beyond my comprehension." Though his "Abigail," as the pasquinades of the day termed her, vexed, because the treasurer would not connive at her peculations, told him plainly, "You never did the queen any service, nor are you capable of doing her

any," he supped with the petulant dame, strange to relate, the same evening, in company with Bolingbroke. Such pusillanimity chafed and grieved his devoted friends, but the very heartiness of their displeasure proves how much they loved him.

His private secretary, the faithful Erasmus Lewis, could not forbear to murmur. "July 24. The Dragon has broke out in a fiery passion with my lord chancellor, and sworn a thousand oaths that he would be revenged. This impotent, womanish, behaviour vexes me more than his being out." "You judge me right," he admits to Swift, "it is not the going out, but the manner that enrages me. The queen has told all the Lords, the reason of her parting with him, viz.: that he neglected all business; that he was seldom to be understood; that, when he did explain himself, she could not depend on the truth of what he said; that he never came to her at the time she appointed; that he often came drunk; lastly, to crown all, he behaved himself towards her with bad manners, indecorum, and disrespect." These reproaches of her majesty would entail upon the fallen favourite of eight years' standing lasting disgrace, were not a large allowance to be given to the exaggerations of a weak woman, deluded by her angry maid. It may be admitted that he was often diplomatically obscure—that he was unpunctual to a ludicrous degree—and more insincere than even a first minister is permitted to be; but still a suspicion intervenes, that cousin Masham had dropped the hint of inebriety, when he hastily attended a late summons to the closet from the Kit-Cat; and there is no doubt that a very slight inattention to court etiquette would appear in Queen Anne's sight an enormous

breach of propriety. Who can forget her sacred majesty's quarrel with Bolingbroke for venturing to present Prince Eugene before he had time to purchase a new full-bottom periwig; and her indignant remark, when that nobleman or Harley (for tradition ascribes the misadventure to both) appeared in the royal presence in a tie-wig, that she supposed the noble lord would next come before her in his night-cap!

CHAPTER IV.

THE shadows which had deepened on the fair fame of Oxford passed away with his disgrace; and that fall from power, which betrayed the baseness of so many natures, re-instated him in the good opinion of his friends. Banished from court, stripped of all his offices, threatened with persecution to the death from an hostile House of Commons, strictly confined in the Tower, borne down by disease, he yet displayed a cheerful fortitude, a magnanimous composure, that presented a strong contrast to the guilty absconding of Bolingbroke and the terror-stricken retreat of Ormond. At their parting interview in the Tower, the rash duke is said to have urged his friend to accompany him in his flight, and to have communicated the startling intelligence that his enemies had vowed to have his blood. When he could not prevail, he exclaimed tauntingly, "Farewell, earl without a head;" and, "Farewell, duke without a duchy," was Oxford's calm, almost contemptuous retort. In the spirit of mutual resentment, and as a friend to the Hanover succession, he was thought to show more joy upon proclaiming the king than was consistent with the obligations he had received from Queen Anne. He was hissed all the way by the mob, still furious

for high church, Ormond, and Sacheverell; and some of them threw halters into his coach*. But when, contrary to all belief, he found himself selected for a martyr, and ominous menaces were thrown out, he treated them with contempt. He only smiled, when informed that the versatile Earl of Anglesea declared himself ready "to pursue an evil minister from the queen's closet to the Tower, from the Tower to the scaffold;" and that Lord Nottingham compared his treaty to that of the Duke of Suffolk, in the reign of Henry VI., adding, with rhetorical effect, "but I say no more of the man, because he came to an untimely end."

The earl's firmness never quailed, but commanded in the dungeon Arbuthnot's warm admiration. "He is without shadow of change, the greatest example of an unshaken tranquillity of mind that ever I yet beheld, seemingly perfectly well satisfied with his own conduct in every particular. You know we have often said there is but one dragon in *rerum natura;* I do not know what he thinks, but I am perfectly well satisfied that there will not be that one dragon left, if some people have their will." This magnanimity was not overcome by two years' close confinement, and elicited the noblest eulogy that was ever laid by genius on the shrine of public virtue; the dedication of Parnell's Poems, known by heart to every lover of poetry.

* The worst punning libel in our language was published at this time by Dunton. "Queen Robin, or the second part of Neck or Nothing, and *Ox*-ford and *Bull*-in-brooke, or a Funeral Sermon upon the two beasts that are to be slaughtered upon Tower Hill, this session. 'But these as natural brute beasts must be taken and destroyed.'"

The following four lines are scarcely more poetical than true—

> A soul supreme, in each hard instance tried,
> Above all pain, all passion, and all pride,
> The rage of pow'r, the blast of public breath,
> The lust of lucre, and the dread of death.

"Strength of mind," says Warton[b], when commenting upon Pope's dignified, musical, and affecting tribute, "appears to have been the predominant characteristic of Lord Oxford, of which he gave the most striking proofs when he was stabbed, displaced, imprisoned. Of his fortitude and firmness another striking proof remains, in a letter which the earl wrote from the Tower to a friend who advised him to meditate an escape, and which is worthy of the greatest hero of antiquity." When brought at length to the Lords' bar, for the trial he had long earnestly sought, his bearing was so noble, that Swift, in his history of those who have made great figures in some one particular circumstance or action of their lives, enumerates "Robert Harley, Earl of Oxford, at his trial." Struck down by a hard blow, he seems to have caught strength and spirit with the rebound.

On the afternoon of his acquittal, he entered the House of Lords and received the congratulations of his friends. Though forbidden the court, and excepted by name from the Act of Grace, he supported the opposition with all his strength, daring the resentment of those in power, and vehemently opposed the act making it lawful for courts-martial to punish mutiny and desertion with death, commencing his speech, "As long as I have breath, I will speak for the liberties of my country." Conscious inno-

[b] Warton's Notes on Pope.

cence, the best inspirer of courage, swelled his breast as he again confronted that high assembly, the majority of whose members, though they shunned to sit at his side, as if tainted with jacobitism, were more guilty of treason than himself. He had been betrayed indeed, by his indignation at unworthy treatment, to write to the Pretender from the Tower; but, considering the far-extended treachery of the times, this beginning of a correspondence that intended more than compliment may be deemed comparatively venial in one, who had never taken advantage of his jacobitism to promote the cause of the Stuarts. In sending occasional letters of ceremony to the French as well as to the German court, he merely adopted the self-seeking system of the age, and certainly did as much to baffle the designs of St. Germains, by his dilatoriness, coldness, and indecision, as the most zealous Hanoverian could have desired. Barillon impugns his affection for the cause; and, so far as acts went, he might safely have challenged the favour of George I. on his landing at Greenwich.

The jacobite emissary, Lockhart, speaks the well-founded feelings of his party. "That the queen did, for a long time, desire her brother's restoration, I do not in the least question, but was prevailed with to postpone and delay it, partly by her own timorous nature, partly by the divisions and discord of her ministers, and partly by the tricks, intrigues, and pretences, of the Lord Oxford." This result had been foreseen by the keen Duke of Berwick, who sent over to Lord Ormond and his friends the strongest representations against the treasurer, as undeserving of confidence. The Pretender himself never believed Oxford sincere, and his intimate friends

suspected treachery to the cause. Lady Masham wrote to St. Germains that he would pique himself on deceiving their hopes and disappointing their wishes; and the lady shewed the natural penetration of her sex. Were further testimony wanted, we have the confession of the Duke of Marlborough, that he did not believe him in the king's interest. No sooner had that intriguing soldier written home to assure his friends that the restoration of the Pretender would overturn the liberties of his country and endanger the safety of Europe, than we find him active in protestations of attachment to his person, through Marshal Villars, and declaring that he would rather cut off his right hand than oppose the Chevalier's views to the crown. "As for me," he writes, "I have been treated unworthily; but God has blest me with a great deal of temper and forbearance of mind. I have taken my resolution to be quiet. I have determined to wait my time; but, if Harley will push me further, he shall know of what metal I am made. As for the king's affairs, occasion is only wanting for zeal." This and other letters prove the duke's want of scholarship and his bad spelling; but the absence of all faith and honesty is far more disgraceful to the writer than mere ignorance of grammar. For his own unblemished fame Marlborough had better have been a marksman.

Compared with his epistolary double-dealing, Harley's graceful letter of compliment to the elector, though far from speaking the truth, was sincere and straightforward[c]. "November 1710. I have hitherto chosen that my devotion to your electoral highness's person, and your serene highness, should appear

[c] Sir H. Ellis's Collection of Letters.

rather by my actions than by bare words; but, since the queen has done me the honour to bring me again into her service, I could not be a faithful or acceptable servant to her majesty, without studying to serve your highness' interest. I have taken the liberty to write this in English, because I know your electoral highness has an English heart, that you may be assured it comes from a heart entirely devoted to your service."

The elector replied—"Je seray toujours fort aisé de vous faire voir la considération que j'ai pour votre personne, et la sincérité avec laquelle je suis, monsieur, votre très affectionné, George Louis, électeur."

In April, 1714, Oxford wrote again to his principal minister—"I do in the most solemn manner assure you, that, next to the queen, I am entirely and undoubtedly devoted to the interest of your highness of Hanover. I may without vanity say that I had the greatest hand in settling the succession." The lord treasurer wrote to the prince for the last time in May, 1714. "As I am sure your royal highness' great wisdom would not choose to rule a party, so you will not let their narrow measures be the standard of your government. I doubt not this accident which hath happened (about the writ), may be improved to increase the most perfect friendship between the queen and your serene family."

The treasurer, by the queen's command, had vehemently opposed the issuing of a writ to the prince, as Duke of Cambridge, saying, "that his presence would be like placing her coffin full in her majesty's view." His opposition gave extreme umbrage, and he soon found, at the accession, that his hopes of favour,

though resting apparently upon a firm foundation, were built on sand. The king determined to proscribe, if he could not exterminate, the tories, and their leader's share in the Act of Settlement was forgotten. He had his likeness taken as speaker, with that act in his hand. When Prior, we are told, saw the portrait after his impeachment, he wrote upon the blank part of the scroll, "This bill paid in full, July 12th, 1715," the date of the warrant for Oxford's committal as a traitor. From the lights that have been since reflected on the character and conduct of the leading colleagues by whom he was surrounded, we may almost congratulate the country on his silence and reserve, and applaud the furtive prudence with which, at this political game of loo, he contrived to conceal his hand from the desperate gamblers who made England their stake. "He must play a very dangerous game," was Bolingbroke's aphorism, "who shows all his cards to the man that bets openly on the other side." The silence of the prime minister and his Fabian policy had the negative merit of preventing a counter-revolution. To his delays and mysterious hindrances, may be mainly attributed the safety of the Protestant succession.

But the treasurer had other great and positive merits, in addition to the negative one of being no Jacobite. He was frugal of the public money, an economical and incorrupt minister, a lover of peace, a friend of toleration, placable, religious, moral, domestic, devoted to literature, and the friend of literary men.

Though the reported defalcation of forty-four millions was a party cry, the hyperbole of faction, there had been lavish profusion, which the treasurer

checked, and bound up the bleeding veins of the nation. He appears to have been more economical of the public money than his own,—a virtue most praiseworthy, at a time when the state purse had been drained too freely, and was yet exhausted with the corrupt grants of the preceding reign and the cost of a ten years' war. His retrenchments extended even to Chelsea Hospital, where tradition relates[d] his reducing the female soldier's pension from 1*s.* to 5*d.* a-day. He could compute the accounts of a kingdom, and suggest saving reforms to the most minute article of expenditure, but was wholly careless of his own private economy. On quitting office, the incorrupt lord treasurer, though weighed down with dignities, had no better estate than when he assumed it. He refused Lady Masham a share in the Assiento contract, which would have been deemed a trifle in that age, and found the queen's face averted from him, because he would not minister to the fraud and avarice of a kinswoman. At a period when corruption among statesmen was as common as it is now happily rare, he stood beyond the atmosphere of bribes, and thoroughly incorrupt. He neither tampered himself with the public revenues, nor connived at venality in others.

Unlike his vehement accuser, Walpole, who built Houghton at such a lavish cost, that posterity are left in silent conjecture what secret fountain the treasures could have flowed from, his hands were pure from gifts. The artificer of a peace more useful than glorious, better fraught with benefit to the real interests of his country than conducive to her renown, he strove to introduce a new spirit of temper and mode-

[d] Gleig's Chelsea Hospital.

ration into the counsels of the crown, and was content to establish a precedent, that ministerial responsibility, when misapplied, should terminate in disgrace. He scouted the notion, then too prevalent, of impeachment, the scaffold, and the block. Shocked at the extravagance of the March and October clubs, who longed for reprisals on the prostrate but lately persecuting whigs, and animated by a lingering fondness for the principles of the party with whom he first entered on public life, he essayed to smooth the differences of the antagonist factions, and, with the common fate of all who would separate combatants, exposed himself to the attacks of both.

Yet, though personally injurious, his attempt at mediation and a moderate policy proved of essential benefit in those excited times. The reproach of political fanatics, that he promoted the return of independent and neutral members to parliament; that he caused the sheriffs to be pricked from those of the low church party; that he connived at the continuance of whigs in the lieutenancies of counties, in commissions of the peace, in offices of the revenue, now that passion has died away, becomes a theme of panegyric. What irreconcileable enmities must have sprung up in a land giddy with faction, had he listened to the violent non-jurors, and flung away the scabbard! What a drear prospect of civil war would have loomed over the land, had he not resisted such divines as the Bishop of Rochester, ready with cope and stole to proclaim James III.; had he not rebuked the address of the Highland chiefs[e], when, with sword in hand, they expressed their hopes that, after her majesty's demise, the parliamentary and hereditary sanction might possibly

[e] Scott's Tales of a Grandfather.

meet in the person of a lineal successor; had he not neutralized by suspense the wishes of the landed, arrayed against the moneyed interest, that the crown might revert to the good old line!

The senseless imputation that he manœuvred in the elections of 1713 for the return of whigs, though the returns in four places out of five went in favour of the tories, whilst it proves the virulence of faction, proves also the necessity of a master-hand to control and allay it. "They blame Lord T.," says the Journal, "for his slowness in turning people out, but I suppose he has his reasons." When the clerical polemic, wearied with further delays, ventured to remonstrate, his patron explained the motives of his policy, the necessity of keeping men in hopes, the danger of disobliging those who must remain unprovided for, and his desire not to let the tories be too numerous, lest they should be insolent and kick against him. Paltry reasons of state-craft assuredly, but the wish to preserve in some degree the balance of parties argued his wise moderation, and anticipated the sound public ethics of later days.

Lord Oxford proved, on a memorable occasion, that policy, and not fear, was the motive of his public conduct; that he would not be deterred from taking a decisive part, when the good of the state required it. When General Macartney, Colonel Coote, and other officers of the Guards, indignant at the prospect of what they deemed a dishonourable peace, had the foolish hardihood to drink destruction to the present ministry, and, dressing up a hat on a stick, and calling it Harley, to discharge their pistols at it, even wishing the figure were Harley himself; the treasurer would not overlook so flagrant an example of insubordination

in general officers, but compelled them to retire from the army, or undergo the risk of being broke by a court-martial. But to prove that the punishment was inflicted on the grounds of public policy, and not to gratify private spleen, he permitted them to dispose of their commissions at half the real value. With equal resolution, when the Duke of Marlborough threw out hints of refusing to resign his command, the treasurer caused a commission to be drawn up immediately, under the great seal, to deprive him of all his employments. The possession of a dauntless spirit was proved by Harley, when Guiscard's pen-knife broke in his body; his countenance never changed: with unfaltering voice he asked the surgeon if he were in immediate danger, that he might settle his affairs, for he did not fear death, and all who saw believed him.

A beautiful Latin epigram was written by Atterbury upon the unmoved countenance with which he received the blow, contrasted with the agitation of feature and changed colour which he evinced when receiving the congratulations of the House of Commons upon his escape:—

"Devotum sensit cùm condi in pectore ferrum
Immoto Harlæus saucius ore stetit:
Dum lætâ huic reduci gratatur voce Senatus
Confuso subitus surgit in ore rubor:
O pudor! O virtus! partes quàm dignus utrasque
Sustinuit, vultu dispari, laude pari."

Threats of assassination, predicting, in disguised characters,

"Though Guiscard's hand did not succeed,
A Fenton's yet may do the deed,"

failed to disturb his equanimity, and anonymous libels

signed "your humble servant, the Devil," full of the sweltering venom of party, only raised his mirth. Superior to foolish fancies, he remarked to a friend, when the queen was attacked with gout in the stomach, and there appeared a universal panic among his retainers: "These people, when the queen is ill, think she has not an hour to live, and, when she is better, they act as if she were immortal." The sarcasm might have been retorted on the speaker, "de te fabula narratur," if he had not been chained down to inaction by distrust of his colleagues.

The subject, perhaps, of more violent enmities than any man of his day, he was himself placable and forgiving, cherished no resentments, and crushed no foes from motives of personal hate. But their combined opposition was insufficient to shake his purpose. Resolute of will, though versatile in his methods of effecting it, he supported the Church of England, her discipline, and ministers, when assailed with virulence, yet shielded the dissenters from persecution. That noble fund for the relief of poor livings, known by the name of Queen Anne's bounty (would it were larger!) was commenced during his administration, which had the further merit of originating that admirable scheme for building fifty new churches in London and Westminster — a noble monument of his zeal to supply the religious wants of a great community, which the miserable thrift of his successors cut down to less than a fifth of the original design, and which, in its integrity, not even the munificence of the present century has been able to complete. An adopted son of the church, he set an example but imperfectly imitated, of respecting all who ministered at her altar.

The Examiner, after eulogizing Oxford as a firm

friend and placable enemy, and sneering at the preceding premier (Godolphin), contrasts with the conduct of the whigs this amiable peculiarity. "There is some mixture of human infirmity. His greatest admirers must confess his skill at cards and dice to be very low and superficial; in horse-racing he is utterly ignorant: then, to save a few millions to the public, he never regards how many worthy citizens he hinders from making up their plum; and surely there is one thing never to be forgiven him, that he delights to have his table filled with black coats, whom he uses as if they were gentlemen." Having, when speaker, to forward the thanks of the House of Commons to the lower House of Convocation, he mentioned to the prolocutor his own personal zeal and deference to their house, and added, "My most humble service attends those other reverend persons who came with you last night.[1]" The clergy had been so much accustomed to the language of scorn and contumely from those in power, that they received his courtesy with gratitude. An excellent divine and scholar himself, he admitted all who had taken their degrees in polite letters to his fellowship, as members of a joint corporation.

An amusing instance is given in Seward's Anecdotes of his abstruse reading in divinity and ready application. "A little before the Peace of Utrecht, Bishop Lloyd, then eighty-three or eighty-four years of age, came to Queen Anne, and told her he could prove from Daniel and the Revelations that she ought not to make a peace"—upon such terms there required no spirit of divination to prove she ought not. The queen replied to her prelate of Worcester, 'My lord, I am no divine, I cannot argue that matter, but Lord

[1] Atterbury's Correspondence by Nicholls.

Oxford may, perhaps, answer your objections.' At the time appointed, the presence-chamber was full of nobility to hear the conference, wherein the Lord Oxford confounded the prophet, and exposed him to the last degree." "Lord Oxford rehearsed the whole conference to me," writes his friend to Dr. Charlatt, "and it was the most diverting thing I ever heard in my life, a vast deal of learning, mingled with a great deal of wit."

His practical method of silencing other importunate fanatics, without calling in aid the terrors of the law, redounds still more to his credit. A number of preachers, who thought they had the gift of prophecy, used to collect vast crowds of idle people in Moorfields, and the minister's interference was prayed to abate the nuisance. Too wise to disturb the popular phrenzy by force, he directed Powel, the master of the famous puppet-show, to make Punch turn prophet on the vacant ground opposite. Punch harangued with such success, that the prophets and their prophecies were quickly put to the rout. "Risu solvuntur tabulæ!"

In the estimation of those who remember the majority of preceding prime ministers since the Restoration, with the exception, perhaps, of Godolphin, it is no light praise for the first minister of the crown to have been a man of correct morals, and exemplary in all the relations of private life. It was of public benefit to an age scarcely recovered from the licence of the libertine Charles, that he set an example of religious obligation in his high estate, that the bearer of the white wand was not ashamed of being a good husband and father, that the lord treasurer could afford to dispense with the *éclat* of fashionable vice. H was most beloved where best known, in the circle of the domestic

hearth—his character shone brightest by the light of his own fire-side.

When comforting the old earl on the death of his only daughter, the Marchioness of Carmarthen, Swift feelingly remarked, "I have often said to your lordship that I never knew any one, by many degrees, so happy in their domestics, as you. To say the truth, my lord, you began to be too happy for a mortal, much more happy than is usual with the dispensations of Providence long to continue." Lord Oxford was twice married; first to Elizabeth, daughter of the excellent Thomas Foley, of Witley Court, Worcestershire, by whom he had one son, Edward, who succeeded him in the title; and two daughters, Abigail, afterwards married to the Earl of Kinnoul, and Elizabeth, whose marriage to the eldest son of the Duke of Leeds called forth the bitter spleen of Bolingbroke.

The manners of Lord Oxford were peculiarly mild, courteous, and conciliating, with none of the fripperies of a *petit-maître*[g]. It is told of Le Sac, the celebrated French dancing-master, that he asked a friend, with an air of great surprise, whether it were true that Mr. Harley was made an earl and lord treasurer; and finding the report confirmed, exclaimed, "I wonder what the d—l the queen could see in him, for I attended him two years, and he was the greatest dunce that ever I taught.[h]" His enemies admit that he was pointedly civil to all who addressed him, but add, what certainly detracts from the admission, that he generally either spoke so low in their ear, or so mysteriously, that few knew what to make of his replies[i]. In one of his letters, he expressed, in a

[g] Mackey's Chara ers. Swift's Works by Scott.
[i] Lockhart.

strong figure, his facility of disposition and readiness to oblige. "If the company should say Harrow on the Hill or Maidenhead were the nearest way to Windsor, I would go with them, and never dispute it, if that might give content, and I might not be forced to swear it was so." His easy, *négligé* manners would have insured a welcome entry at White's or Boodle's, and made him a favourite guest at the Beef-steak Club. In writing to a brother of the Kit Cat, Arbuthnot gives a lively description of his clubable qualities. "June 12, 1714 (within a fortnight of his expulsion from office). The Dragon was with us on Saturday night last, after having sent us really a most excellent copy of verses. I really believe when he lays down the staff, he will prove a very good poet. I remember the first part of his verses was complaining of ill usage—

> "He that cares not to rule, will be sure to obey,
> When summoned by Arbuthnot, Pope, Parnell, or Gay."

To the charms of literary society, the statesman, perhaps, gave up too much of the public time; and when the exigencies of the state demanded the utmost energy and most continued application, he enjoyed his jest with the wits of that Augustan era, and slumbered on amid the downy pleasures of social intercourse and learned leisure. His gay, good-humoured, *insouciant* temperament, amid scenes of difficulty, and doubt, and danger, excited the admiration of Swift, who, stoical himself, yet envied his epicurean disposition. "He is as merry, easy, and disengaged as a young heir at twenty-one." The diarist notes down, December, 1711. "He was very pleasant, as he is always, yet I fancied he was a little touched with the present posture of affairs. Lord Trevor was hinting as if he wished a

ballad got up against Dismal (the Earl of Nottingham), and I will get up one against to-morrow."

Next day, when a majority of six in the Lords had declared against the court, he adds, in a panic, "I told Lord T. I should have the advantage of him, for he would lose his head, and I should only be hanged, and so carry my body entire to the grave. Lord Treasurer fell a-rallying me. Says he 'you had better keep company with me than with such a fellow as Lewis, who has not the soul of a chicken, nor the heart of a mite.'" A few days later, he continues, "Things do not mend, but Lord T. only says,, 'Pho, pho, all will be well.'" At length came forth the Extraordinary Gazette to relieve his panic-stricken followers of all fear, and Oxford was again permitted to float down the stream of events without disturbing the current. None knew the art better, "desipere in loco," to throw aside his state robes for the morning gown and slippers of a sauntering lover of literature, to close the doors against matters of business, and snatch a few hours of festive ease, to spell signs, and cap crambo verses with Swift, or bask in the hay-field with Pope. The bantering, affectionate tone in which his friends mention him, when writing to each other, is worth a volume of laboured eulogy to prove the social amiability of the man, that in private life he was made to be loved.

He subdued to a melting mood the rugged, suspicious, nature of Swift; attached the playful goodness of Arbuthnot; drew close to his side the philosophic simplicity of Wren; won over, without a bribe, the captious jealousy of Pope, and detained in friendship that synod of wits who all claimed affinity with the "genus irritabile vatum," Prior, and Parnell, and

Gay. To the honour of literary friendships, be it remembered, that they all clung to the dismissed and menaced minister in the autumn of his days and in powerless retirement, with as much devotion as they had ever evinced in the meridian sunshine of the court. The exiled Clarendon declared, on his expulsion from office, that he had no friend to brag of; but Lord Oxford withdrew from public life with that household company which nothing but his attaching qualities could have retained; those "troops of friends" who surrounded his old age, and shielded him from disgrace. Their testimony to his worth is the more unexceptionable, because he never weighed genius in a goldsmith's balance, or purchased their adherence by a bribe. It has been whispered, indeed, that he was a better companion than patron to literary men; and his conduct to Rowe, and even to Pope, has been glanced at in support of the imputation.

We are told by the gossiping Spence that Rowe, a violent whig, who had been under-secretary, applied to the Earl of Oxford for some public employment. Oxford enjoined him to study Spanish,[k] and when, some time afterwards, he came again, and said that he had mastered it, dismissed him with this congratulation: "Then, sir, I envy you the pleasure of reading Don Quixote in the original!" "This story," adds Dr. Johnson,[l] "is sufficiently attested; but why Oxford, who desired to be thought a favourer of literature, should thus insult a man of acknowledged merit, or how Rowe, who was so keen a whig that he did not willingly converse with men of the opposite party, could ask preferment from Oxford, it is not now possible to discover. Pope, who told the story, did not

[k] Spence's Anecdotes. [l] Life of Rowe.

say on what occasion the advice was given; and though he owned Rowe's disappointment, doubted whether any injury was intended him, but thought it rather 'Lord Oxford's odd way.'"

There is another solution of this otherwise inexplicable rudeness. Rowe might have been designed for a diplomatic mission, some secret service in the peninsula, then rife with intrigues, the time for which had passed away before he completed his studies, or obtained a mastery of the language. The earl, who loved mystery in his heart, probably wished under this off-hand sally to conceal the cause of change, and cared not to explain that the mission had become abortive. Any conjecture seems more probable than that a gentleman should have passed a contemptuous slight on a poet and a scholar. He is blamed, but surely with little reason, for not extending more active patronage to Pope. When he resolved to solicit a subscription to a version of the Iliad, Lord Oxford, it is said[m], "lamented that such a genius should be wasted upon a work not original, but proposed no means by which he might live without it." The remark was as just as complimentary to the poet; and why should posterity fancy neglect, when the author, himself so sensitive, imagined none? His injudicious friends complain of the treasurer often expressing concern that Pope's religion rendered him incapable of a place, but never speaking one word of a pension. For this offer he was solely indebted to the whig ministers, Lord Halifax and Craggs. And Dr. Croly (in his edition of Pope) makes an indignant comment. "The narrative is amusing, as an instance of the early propensity of the tories to admire, and

[m] Spence's Anecdotes.

the whigs to remunerate! of course this state of things has never occurred again!" Yet the instant rejection of this offer by the independent bard, proved that he sought no patronage of the purse, and there might be a delicacy more grateful to his feelings, in abstaining from an offer which lessened his sense of self-respect. The "wicked wasp of Twickenham,"[n] as he was happily named by Lady Mary Montague, would not have buzzed so innocuously, have sheathed his sting, and deposited the sweetest honey, had there been good cause to suspect coldness or neglect. The dedication of Parnell's Poems to Lord Oxford, the noblest offering that was ever paid by genius to one who knew its value and could retain its friendship, derives its chief effect from the conviction that no taint of sordid interest could have sullied that pure flow of inspiration. It was in 1721, long after the ex-minister had withdrawn from place and power, that Pope published a selection from Dr. Parnell's works, and inscribed them to the earl in a copy of verses, such as few patrons had ever the honour to receive. He accompanied them by a letter, in which he says, "This is the only dedication I ever writ, and shall be the only one whether you accept of it or not; for I will not bow the knee to a less man than my Lord Oxford, and I expect to see no greater in my time." His generous Muse

> Thro' fortune's cloud one truly great can see,
> Nor fears to tell that Mortimer is he.

It is true that Lord Oxford was not fond of pensioning literature on the public purse. Arbuthnot taunts Swift with his patron's stinginess[o]. "Sure you are a very ill husband, for you had the complete

[n] Lady Montague's Letters, vol. i. [o] Swift's Correspondence.

£1000, and sixpence of another £1000 given by the Dragon." Prior also laughs at his patron's putting off the evil day of payment:—

> "Dear Robert," quoth Saint John, whose mind,
> In bounteous deed no mean can bind,
> "Let that be wrought which Matt doth say."
> "Yea," quoth the erle, "but not to-day."

But that the poet's fleece was not dewless, we have abundant testimony. He made Mr. Granville secretary at war; invested Prior, though a vintner's son, with the dignity of plenipotentiary to Paris; be-*deaned* Swift, and would have clothed him in lawn but for the insuperable objection of the queen; pensioned De Foe, and respected the protection which letters threw around those of the opposite faction, Congreve, and Steele. When setting forth his own active exertions in behalf of literary men, Swift writes to Pope, 1720:—"Lord Oxford knows how often I pressed him in favour of Mr. Addison, Mr. Congreve, Mr. Rowe, and Mr. Steele, although I freely confess that his lordship's kindness to them was altogether owing to his generous notions, and the esteem he had for their parts, of which I could only pretend to be a remembrancer. For I can never forget the answer he gave to the late Lord Halifax, who, upon the first change of the ministry, interceded with him to spare Mr. Congreve; it was by repeating these two lines of Virgil:—

> "Non obtusa adeo gestamus pectora Poeni,
> Nec tam aversus equos Tyria Sol jungit ab urbe."
>
> "Our hearts are not so cold, nor flames the fire
> Of Sol so distant from the race of Tyre!"

It was in those times an usual subject of raillery

towards me, among the ministers, that I never came to them without a whig in my sleeve."

Lord Oxford's good-humoured readiness to be reconciled to his traducer Steele, and to take him again into favour, appears from Swift's Journal. "Mr. Harley reproached me the last time I saw him that to please me he had promised and appointed to see him, but that Steele never came." The provocation that thoughtless wit had given in his Tatlers was very great, and could only be forgiven for their sly humour and agreeable satire. At the time when Harley was smoothing the way for his return to office, a Tatler attacked his foibles in the following clever sketch[p].

"There is Polypragmon makes it the whole business of his life to be thought a cunning fellow, and thinks it a much greater character to be terrible than agreeable. He pretends to much more ill than he performs, and hugs himself in his closet, that, though he is locked up there, and doing nothing, the world does not know but that he is doing mischief. To favour the suspicion, he gives half looks and shrugs, to let you understand that you do not know what he means. He is also wonderfully adverbial in his expressions, and breaks off with, perhaps, a nod of the head, upon matters of the most indifferent nature."

Just before the *dénouement*, a letter was inserted professing to come from poor old Downes the prompter (Duke of Leeds), craving advice whether he should come again into the sub-administration of stage-affairs[q].

"I have known men within my remembrance

[p] Tatler, January 29, 1710.
[q] Tatler, April, 1710.

arrive to the highest dignities of the theatre, who made their entrance in the quality of mutes, joint-stools, flower-pots, and tapestry hangings! I have from my youth been bred up behind the curtain, and been a prompter from the time of the Restoration. A gentleman of the inns of court, and a deep intriguer, has worked himself into the sole management, and imposed on the audience harlequins, French dancers, and Roman singers, to the extirpation of the good old British actors. He is tolerated by reason of his dexterous insinuations, which prevailed upon a few deluded women, especially the vizard masks, to believe that the stage was in danger. He has picked a tolerable good set of grave faces for counsellors, to appear in the famous scene of 'Venice preserved,' when the danger is over. The actors had a great mind to play the 'Tempest,' but there is not a man of them capable of acting, with a good grace, so much as the part of Trinculo. The play with which they design to open, is 'The Duke and no Duke,' and they are so put to it, that the master himself is to act the conqueror, and they have no one for the general but honest George Powell!"

These biting jests would have exposed Steele to ostracism by the preceding government, but Harley, far from imitating the peevish folly of Godolphin, made himself merry with the clever hits at his expense, and which gave so little quarter to Lady Masham, the Duke of Leeds, and Duke of Ormond. Steele's raillery seemed heightened by ingratitude; for Harley, when secretary, had raised the emoluments of the office of gazetteer, the post which enabled the satirist to call himself "lowest minister of state," from 150*l.* to 300*l.* a-year, and had disclaimed all

personal obligation, saying when Steele came to make his bow, "Do not thank me, thank Mr. Mainwaring." But the sturdy patriot resigned the appointment, together with another which he held under government, that he might not be encumbered with any burden of gratitude, but declaim against their measures freely. Constant to his party, he opposed with all the vigour of his talent Lord Oxford's baneful domination, but, as a generous antagonist, withheld not his tribute of admiration from the patron of literature on his fall. With the noblest feelings of a gentleman, he stood aloof, when his motives might have been open to the construction of selfish interest, but hastened to relieve himself of his kindly feelings, when he knew that the offering would be welcome to a decayed minister, and could not be misunderstood.

"I transgressed, my lord, against you, when you could make twelve peers in one day. I ask your pardon when you are a private man; and, as I told you when I resigned the stamp-office, I wished you all prosperity consistent with the public good, so now I congratulate you upon the pleasure you must needs have, in looking back upon the true fortitude with which you have passed through the dangers arising from the rage of the people and the envy of the rest of the world. If to have judged rightly of men's passions and prejudices, vices and virtues, interests and inclinations, and to have waited with skill and courage for proper seasons and incidents to make use of them, can administer pleasure to a man of sense and spirit, your lordship has abundant cause of satisfaction."[1]

Another name, still greater than Steele's, has been

[1] Steele's Preface.

often cited in this vindication of Harley's memory, that of his faithful ally, Jonathan Swift. It is impossible to read his delightful descriptive verses, letters, and diary, without imbibing some share of personal interest in his patron. What rhymes ever flowed in more easy charming metre than the dean's account of their daily drive, rivalling the bard of Brundusium, and depicting a still more amiable Mecænas. He makes his reader a companion in the ride, as he tells how the grave minister

> "Would take me in his coach to chat,
> And question me of this and that,
> As 'What's o'clock,' and 'How's the wind?'
> 'Whose chariot's that we left behind?'
> Or gravely try to read the lines
> Writ underneath the country signs;
> Or, 'Have you nothing new to-day,
> From Pope, from Parnell, or from Gay?'"

Warton, in his chatty notes[s], records that another of the amusements in their excursions consisted in counting the poultry on the road, and whichever reckoned thirty-one first, or saw a cat, or an old woman, won the game. Bolingbroke, overtaking them one day on their road to Windsor, got into Lord Oxford's coach, and began some political conversation. Lord Oxford interrupted: "Swift, I am up; there's a cat!" Bolingbroke was disgusted with this levity; "he was not i'the vein," and went again into his own carriage. "This," says Warton, "was *Nugari, et discincti ludere* with a vengeance;" but Lord Oxford loved the motto, '*Vive la bagatelle!*' and lived according to it.

We know nothing more delightful in literary annals than the careless, easy, quizzing, familiar,

[s] Warton's Edition of Pope.

confidential intimacy with which he won the heart of the cynical dean. The rise and progress of their friendship must be told, however, in his own words, or we should fail to do full justice to the treasurer's social worth. Swift was sent up to London just previously to the dissolution of the whig ministry on a mission from the Irish bishops, respecting tenths and first fruits. He commences his journal to Stella, with the important notification that it was shaving day, and notes down, "October 4, 1710. To-day I was brought privately to Mr. Harley, who received me with the greatest kindness and respect imaginable." His entries a few days later show how quickly their friendship ripened. "October 7th. After being four hours with him, Harley set me down at St. James's Coffee House in a hackney-coach, and I must tell you a great piece of refinement of Harley. He charged me to come to him often. I told him I was loath to trouble him in so much business as he had, and desired I might have leave to come at his levée, which he immediately refused, and said that was not a place for friends to come to."

In this honeymoon of their friendship, Swift wrote to Archbishop King a character of his patron, which, though highly coloured, marks his habit of acute observation: "The treasurer is much the greatest minister I ever knew: regular in life, with a true sense of religion, an excellent scholar, and a good divine; of a very mild and affable disposition, intrepid in his notions, and indefatigable in business, an utter despiser of money for himself, yet frugal, perhaps to extremity, for the public. In private company, he is wholly disengaged, and very facetious, like one who has no business at all." The nice tact and gentle-

manly address with which he contrived, as if unwittingly, to flatter the self-love of his guest, is exquisitely characteristic of the adroit courtier. "I dined at Mr. Harley's. Prior and Lord Peterborough began to talk of a paper of verses, called 'Sid Hamet.' Harley repeated part, and then pulled them out and gave them to a gentleman at table to read through; they had all read them often. Lord Peterborough would let nobody read them but himself; so he did, and Mr. Harley bobbed me at every line to take notice of the beauties."

His *savoir faire* failed him once, when mistaking the haughty and eccentric independence of his friend, whose niggardliness in trifles could not escape observation, he presented him with a £50 bank note. The bill was indignantly returned, and Harley's winning arts with difficulty averted a complete rupture. "He promises to make me easy, if I will but come and see him, but I will not, and he shall do it by message, or I will cast him off. He did something which he intended for a favour, and I have taken it quite otherwise, disliking both the thing and the manner, and it has heartily vexed me." His proud stomach was at length appeased, and Swift appeared at the treasury with a moody brow, which the premier's reception quickly cleared away. "He told me he had a quarrel with me. I said, I had another with him, and we returned to our friendship; and I should think he loves me as well as a great minister can love a man in so short a time." How heartily his amity was returned by the cynic appears from the few hurried, pathetic, sentences, in which, bewildered with the shock, he notes down his intelligence of Guiscard's attempt at murder.

"O dear M. D— my heart is almost broken! You will hear the thing before this comes to you. It is of Harley's being stabbed this afternoon.—I took a chair to Mr. Harley's, who was asleep, and they hope no danger, but he has been out of order, and was so when he came abroad to-day, and it may put him in a fever. I am in mortal pain for him. I have now at nine sent again, and they tell me he is in a fair way. Pray pardon my distraction, I now think of all his kindness to me. The poor creature lies stabbed in his bed by a desperate, French, popish villain. Good night, and God preserve you both, and pity me! I want it." A few days later, the journal continues—"The parliament cannot go on till he is well, and are forced to adjourn their money business, which none but he can help them in."

He had formed connections in the city with John Lambert, a wealthy French merchant. The whigs had sold out of the funds, to embarrass the ministry. As soon as "the poor creature" could escape from his room and physicians, the faithful chronicler becomes amazed at his approaching greatness. "I believe he must be lord treasurer, yet he makes only one difficulty, which is hard to answer; he must be made a lord, and his estate is not large enough, and he is too generous to make it larger; and, if the ministry should change soon by any accident, he will be left in the suds.—Another difficulty is that, if he be made a peer, they will want him prodigiously in the House of Commons, of which is the great mover, and, after him, the secretary, and nobody else of any weight. He never comes to court at all: somebody asked me the reason. 'Why,' said I, 'the Lord of Oxford only knows!' He always goes to the queen by the back

stairs—He is now Earl of Oxford, and Earl Mortimer, and Baron of Wigmore Castle. My Lord Oxford can't yet abide to be called my lord, and, when I called him my lord, he called me Dr. Thomas Swift, which he always does, when he has a mind to teaze me. By a second hand (he was grown wary with his original misadventure) he proposed my being his chaplain, which I, by second hand, declined, but we had no talk of it, for I will be no man's chaplain alive."

Again, 29th May: "My Lord Oxford had the staff given him this morning, so now I must call him Lord Oxford no more, but lord treasurer. I hope he will stick there, this is twice he has changed his name this week. I heard to-day in the city that he will very soon have the garter." But no change came over the spirit of his friendship, except to bind closer its bands of intimacy, and to give fuller scope to their merry gibes and bantering jests, to display Swift's opportunities of access in the presence of an envious throng, and to sport fantastic tricks. A familiarity with the great men of state went closely to the proud heart of the morbidly vain dean. "I called at the lord treasurer's; it was his levee day, but I went up to his bed-chamber, and said what I had to say. I came down, and peeped at the chamber door, one hundred fools were waiting, and two streets were full of coaches." Though he has not recorded the circumstance himself, Walter Scott mentions his whim of publicly sending the prime minister into the House of Commons, to call out the first secretary of state, only to let him know he would not dine with him, if he dined late.[1] Oxford retaliated by having the dean knocked up out of bed

[1] Walter Scott's Life of Swift.

at eleven o'clock, upon pretence of earnest business, and then laughing at his simplicity.

In a letter of thanks, which Swift wrote to General Hill, Governor of Dunkirk, for the present of a curious gold-studded snuff-box, he gives a laughable version of their jests at each other's cost. "My lord treasurer, who is the most malicious person in the world, says you advised a goose to be drawn at the bottom of my box, as a reflexion on the clergy, and that I should resent it. But I am not angry at all, and as his lordship observes, by halves, for the goose there is drawn pecking at a snail, just as I do at him, to make him mend his pace in relation to the public, although it be hitherto in vain; and Dr. Arbuthnot, who is a scholar, says you meant it as a compliment for us both; that I am the goose, who saved the capitol by my cackling, and that his lordship is represented by the snail, because he preserved his country by delays."

The cudgelling of each other in sport went on merrily, as we learn from numerous entries in the diary, to the exclusion of grave topics: "Lord treasurer rallied me sufficiently upon my refusing to take him into our club. I took an opportunity to speak to him about the queen, but he cut me short with this saying, *Laissez faire à don Antoine*, which is a French proverb expressing, 'leave that to me!' Lord treasurer calls me now Dr. Martin, because a martin is a sort of a swallow, and so is a swift." From this nickname the celebrated Martinus Scriblerus was compounded.

"When he and I came last Monday from Windsor, we were reading all the signs on the road. He is a pure trifler; tell the Bishop of Clogher so. I made

him make two lines in verse for the Bell and Dragon, and they were rare bad ones." To these wretched lines, far more than to the supposed resemblance of his tortuous character, may probably be traced the origin of his popular bye-name the Dragon. Meantime the selfishness of Dean Swift began to take alarm that so much conviviality and good fellowship should have produced no golden fruit. A trace of pouting displeasure may be observed in his record of their familiarities when at the full. "I dined with lord treasurer, who chid me for being absent three days. Mighty kind with a p——: less of civility and more of interest. Lord treasurer chides me, if I stay away two days together, What will this come to? Nothing! My grandmother used to say

"More of your lining
And less of your dining."

Lord treasurer calls Saturday, the day ministers dine with him 'whipping day,' and we do indeed usually rally him about his faults on that day." "I dined to-day with lord treasurer; this makes four days together, and he has invited me again to-morrow; but I absolutely refused him." "After dining six days running with lord treasurer, I stole away at night, whilst lord treasurer was talking with some one else, and so am at liberty to-morrow." "I just drank a dish of chocolate with lord treasurer; I fancy I shall have reason to be angry with him very soon, but what care I? I could not keep myself awake after supper (the doctor was in a gloomy mood and perhaps would not); I did all I was able to disguise it, and thought I came off clear, but, at parting, he told me, I had got my nap already. It is now one o'clock, but he loves sitting up late."

Of his other foibles, parsimony and dilatoriness, the dean takes *en passant*, a keen, oblique view: "I was playing at one-and-thirty with the lord treasurer and his family the other night. He gave us all twelve pence a piece to begin with; it put me in mind of Sir William Temple." It should be noticed in defence of Lord Oxford, that he had a decided horror of gaming, and never passed by White's chocolate house, the common rendezvous for sharpers and their victims, without bestowing a curse upon that famous academy, as the bane of half the English nobility. The dean's scoffs at his procrastinatory foibles were undeniable. "Lord treasurer engaged me to dine with him again to-day, and I had ready what he wanted, but he would not see it, but put me off till to-morrow. I have great designs if I can compass them, but delay is rooted at Eltee's heart." In promoting his friend's advancement, the premier was neither sordid nor tardy. He would have himself promoted him to the espiscopal bench, but the queen had been persuaded that he was barely a christian, and too light in his discourse for a dignified divine. In vain had Swift's secret vanity been gratified with the hope of preaching at court, and recorded in secret triumph his cherished anticipations.

"Harley and St. John are resolved I must preach before the queen: all the puppies will throng to hear me, and be plaguily balked, for I shall preach plain, honest stuff." Alas! so far from preaching homely sense in St. James's chapel, he was not permitted to have an audience of the queen, and was never even presented. It was only by a desperate effort, after all other preferment had been given away, that Oxford at length succeeded in coercing the grant of an

Irish deanery, competence, and banishment for his friend.

"Lord treasurer told Mr. Lewis," writes the disconsolate suitor, "that the warrant for the deanery should be determined to-night, and so he will say one hundred nights." For once his patron deceived him in his promptitude, the next day the diarist has to record: "I dined with the lord treasurer and his Saturday party, as usual, and was so 'be-dean'd.'" But the Saturday merry meetings were numbered. Bolingbroke now drove on for the sole dictatorship with headlong violence, and the new dean was summoned from taking possession to reconcile those differences, which had become irreconcileable. Finding entreaty, remonstrance, warning, alike fruitless, he withdrew to the country in moody displeasure, and thence addressed to the treasurer the following high-minded letter.

"July 1, 1714. I always loved you so much the worse for your station; for in your public character you have often angered me to the heart, but as a private man never once. So that if I only look towards myself, I could wish you a private man tomorrow; for I have nothing to ask, at least, nothing that you will give, which is the same thing, and then you would see whether I should not with much more willingness attend you in a retirement, whenever you please to give me leave, than ever I did at London, or Westminster. I will add one thing more, which is the highest compliment I can make, that I never was afraid of offending you, nor am in any pain for the manner I write to you. I have said enough; so now, like one at your levee, having made my bow, I shrink back into the crowd, and am, &c., J. S."

A few weeks later, having learned from sure intelligence that the treasurer must forthwith yield up his staff, Swift wrote to repeat his offer. The generous proposal and its hearty acceptance confer equal honour on both. "July 25, 1714. As I am wholly ignorant, so I have none of your composure of mind. If you resign in a few days, as I am told you design to do, you may possibly retire to Herefordshire, where I should readily attend you, if you so soon withdraw, or after a few month's stay in Ireland. I will return at the beginning of winter, if you please to command me."

Lord Oxford promptly accepted this arrangement. "If I tell my dear friend the value I put on his undeserved friendship, it will look like suspecting you, or myself. To-morrow morning, I shall be a private person. When I have settled my domestic affairs here, I go to Wimple, thence alone to Herefordshire. If I have not tired you *téte à téte*, fling away so much time upon one who loves you, and I believe, in the mass of souls, ours are placed near each other." Swift with his peculiar faculty of marking a strong fact in a few simple words, has written on the back of this letter. "Just before the loss of his staff."

There was one bright, tranquil spot, set apart to friendship, even in that stormy day of resignation, darkened as it was with gusts of jealousy and peevishness, and passion. In his letter to Vanessa, (Miss Van Homrigh,) explaining why he followed the footsteps of the disgraced, instead of the triumphant minister, the cynical dean proves that he had a heart, though encrusted too largely with selfishness and pride. "August 1, 1714. I am writ to earnestly by somebody to come to town, and join with these people

now in power, but I will not do it. Say nothing of this, but guess the person. I told Lord Oxford, I would go with him when he was out, and now he begs it of me, and I cannot refuse him. I meddle not with his faults as he was a minister of state, but you know his personal kindness to me was excessive. He distinguished and chose me above all other men, while he was great; and his letter to me t'other day, was the most moving imaginable. Perhaps Lord Bolingbroke may get the staff, *but I cannot rely on his love to me.*"

This confidential letter furnishes an important testimony to the worth of the ex-minister. Lord Bolingbroke has written his own story with the most persuasive eloquence. Lord Oxford has not left a line. Adopting the author's ex-parte version, it has been long the fashion to regard him as all sincerity and openness, the other a mere compound of artifice and guile, and yet, we have it recorded by one who had the closest means of observation, and was pre-eminently an acute observer, that he placed more reliance on Oxford, and, though courted even to adulation by his rival, that he preferred him for his friend. Long afterwards, when Lord Oxford had been dead for years, and Bolingbroke, in an active correspondence, continued to blacken his memory, the dean, it is true, in his wish to pacify that malignant nobleman, says (his letter bears date 1729), "It is you were my hero; but the other never was; yet if he were, it was your own fault, who taught me to love him, and often vindicated him, in the beginning of your ministry, from my accusation." He does not venture to say "you were my friend," but merely acknowledges him as the idol of his admiration.

Walter Scott, with his usual acuteness, explains in a note the dean's apparent insincerity. "To those who look narrowly into Swift's writings, it will, perhaps, appear, that he preferred Lord Oxford as a private friend, yet believed that much of the ruin of Queen Anne's administration was owing, on the one hand, to his indolence, and, on the other, to his jealousy of Bolingbroke, whose active spirit was more fitted to meet the events of that critical period."

Lord Oxford survived his release from the Tower six years; and, though he did not shrink from his public duties, or absent himself from the House of Lords, passed the greater part of his time in comparative retirement at his country-seat, accumulating those rare literary treasures which form his best title to grateful remembrance with posterity. He was an excellent scholar, conversant with the dead languages, fond of repeating hard Greek verses, and (a rare accomplishment at that day even for a minister) familiar with French. It has been often asserted that he was ignorant of this language, but, if we may believe an unexceptionable witness, the report is incorrect. Vernon, in his letter to the Duke of Shrewsbury, May 26, 1704, informs him, "the foreign ministers find Harley understands French perfectly well, though it is not yet as easy for him to speak it as it is Latin."

To such an excellent linguist and patron of literature, Swift's proposals for correcting the English tongue were addressed with peculiar propriety: "I lately writ a letter," he tells Archbishop King, "of about thirty pages to lord treasurer, by way of proposal for an academy, to correct, and enlarge, and

ascertain the English language, and he and I have named about twenty persons of both parties to be members. I will shortly print the letter, and hope something will come of it." Had not Lord Oxford's administration been vexed with discord, and abruptly terminated, something would have come of it, in spite of Lord Chesterfield's sly inuendo[a]. "The plan to fix a standard for the English language was proposed to Oxford, without success, precision and perspicuity not being in general the favourite objects of ministers, and, perhaps, still less so of that minister than any other."

With the exception of a clever pamphlet, entitled, "A vindication of the Commons in the last session of Parliament," 1701, and some statistical papers, Lord Oxford never challenged criticism as an author. A strange report, which, were there the slightest foundation for it, would have added an imperishable chaplet to his fame, was picked up by the late Lord Byron in his travels. "Do you know," he asks, in one of his gossiping letters, "Clarke's Naufragia? I am told that he asserts the first volume of Robinson Crusoe was written by the first Earl of Oxford in the Tower, and given by him to De Foe." What a splendid additional chapter would this have afforded to that barren work, Walpole's Royal and Noble Authors; but there is no voucher to warrant so improbable a fiction.

Though disentitled to the merits of authorship, Lord Oxford, by his zeal, taste, and munificence, collected vast materials for future historians, and can claim the proud distinction of having accumulated the noblest library ever formed in England. He had

[a] Lord Chesterfield's Characters.

such an accurate knowledge of his immense collection, amounting at his death to more than 100,000 volumes, that he could, without a catalogue, refer instantly to any one of his books or manuscripts that a visitor might wish to consult. He commenced forming the Harleian collection about the year 1705. Thoresby[w] speaks, with a gratitude worthy the scholar, of the literary treasures which his care and taste had then accumulated, and of the cost at which our modern Mecænas imported them. "Went to the late secretary Harley, a gentleman of great curiosity, who received me very courteously: he has made a most noble collection of manuscripts, which have cost him a prodigious sum of money, and he allows his library-keeper £100 per annum."

Excellent antiquarian as Thoresby was, he writes his surprise to Dr. Richardson "at finding so prodigious a number of original bulls, charters, and manuscripts, as were purchased at vast rates daily by Mr. Harley." That the printed books should have been dispersed on his son's death was a national loss. Though many collectors of valuable libraries and rare works have risen up since, *e. g.*, the Duke of Roxburgh, Earl Spencer, and other munificent *littérateurs,* perhaps none have laid out larger sums than the late member for the University of Oxford, Mr. Heber, who declared before he went abroad that his library had then cost £92,000, and which cost is supposed to have been at least doubled before his decease[x]. The sums expended by Lord Oxford in this liberal pursuit, if we make an allowance for the difference in the value of money, were almost as great. He died amidst his books at Wimple, May 21,

[w] Thoresby's Diary, [x] Dibdin's Life.

1724, in his sixty-fourth year. The lover of literature, who revels in the treasures which his bounty has amassed for the British Museum, may invert the remark of Hume upon Sir Robert Walpole, and say, "As a Briton I may not admire Harley, but as a scholar I adore him."

CHAPTER V.

THE worthy Evelyn notes down in his diary for 1705, speaking of Queen Anne's second parliament, which met in October of that year, "The parliament have chosen *one* Mr. Smith speaker. There had never been so great an assembly of members on the first day of sitting, being more than 450. The votes both of the old as well as the new fell to those called Low Churchmen, contrary to all expectation." The good old tory felt mortified, no doubt, at the defeat of his friend Bromley, and wrote with a tinge of prejudice, but the epithet "one Mr. Smith" does not vie in absurdity with the "one Prior," the phrase of Burnet, the "one Mr. Walpole" of Swift, or the "Milton, Mr. John" of Johnson's index-maker. This disparaging pronoun is often dangerous to the fairness or prescience of the party hazarding it, but the future celebrity of Mr. Smith was never so distinguished as to make its use in his instance absurdly inapplicable.

Descended from an old family in Hampshire, he was, from the commencement of his parliamentary career, a stanch and steady whig, and had the reputation with his party of being a man of clear parts. So early as the Convention Parliament, we

find him noted by opposite factions as the leading whipper-in of his party. A truculent jacobite pamphlet, "Querela Temporum," describes that party as "either professed and open dissenters, or the more dangerous church fanatics, who keep in our communion no otherwise than as spies, who ridicule us, and do us all the ill offices that are in their power. Of such principles, most iniquitous to the church, are the attorney and solicitor-generals, and almost all the king's counsel, as Williams, and Hawles; and with Russel are joined in the commission of the admiralty rigid fanatics. Such are Montague and Smith, two of the lords commissioners for the treasury, indefatigable sticklers for the whig party." He appears to have struck in early for a share of the spoils, and to have been threatened with refunding. Vernon writes December, 1699, "They talk (*i. e.*, the tories) as if they would renew their attacks upon particular persons, upon the lord chancellor for the Windsor lands, and Mr. Smith for begging the reversion of the Welsh estates that were given to the king by Sir J. Williams' will."

Mackey, in his curious portraits of the chief men of his day, describing their personal appearance for the information of the Princess Sophia of Hanover, notices that "Smith had a good address, was of the middle stature, and fair complexion—a gentleman of good estate in Hampshire, of much honour, a lover of the constitution of his country; a very agreeable companion in conversation, a bold orator in the house, when the interest of his country is at stake." Swift adds in the margin one of his short biting notes, "I thought him a heavy man;" but the shade which his comment throws on the panegyric in the text

appears to have been dictated by party pique. Having filled with ability the offices of a commissioner of the treasury and chancellor of the exchequer in the reign of King William, he was chosen by the whigs as their candidate for the chair, on the retirement of Harley. Shortly before the day of election, Spencer Compton wrote to Walpole a sad report of their perplexities[a]: "Lord Hartington continues ill of the gout, and Mr. Smith has a defluxion on his eyes, and if Mr. Walpole should be absent, the poor whigs must lose any advantage that may offer itself for want of a leader." Mr. Smith recovered time enough, however, to attend in his place, and to carry his election over Mr. Bromley, the court candidate, by a majority of 43; the numbers being, for Mr. Smith 248, for Mr. Bromley 205[b]. No election, we are assured, had ever been disputed with such heat as this was on both sides; so that it was just to form a judgment upon it of the temper of the House. Nearly two hours were occupied (a long discussion for those days of short debate) in canvassing the merits of the rival candidates.

Antagonist pamphleteers hurried into the controversy, and with their "sweet voices" more embroiled the fray. The following portrait of the whig candidate is drawn in Pistol's vein: "He may serve for one of his Grace of Canterbury's watermen, for 'to look one way and row another' is their business: an Englishman with a Scotch heart, an Irish pair of heels, and a Spanish countenance. He goes to church, because the queen does. He is a state hermaphrodite—an ambidexter. Jacob Tonson, with his two left legs, makes not such an awkward figure as he does."

[a] Coxe's Life of Sir R. Walpole. [b] Burnet.

The chair proved a less uneasy seat to Mr. Smith than to any of his predecessors; for the Duke of Marlborough was triumphantly pursuing his unchecked career of glory, and the victory of Ramilies stifled all the murmurs of faction. Even the two houses of convocation agreed, the only time in their annals, with but two dissentient voices, in a congratulatory address. All the supplies for the fleet and army, to an amount more than usually large, were voted in less than a week, and enabled the speaker to say, with much neatness of expression, when presenting the money bills to the queen[c], "That, as the glorious victory obtained by the Duke of Marlborough at Ramilies was so surprising, that the battle was fought before it could be thought the armies were in the field; so it was no less surprising, that the Commons had granted supplies to her majesty, before her enemies could well know that her parliament was sitting."

Mr. Smith had also the good fortune to assist as a commissioner in forming and signing the treaty of union with Scotland: his signature follows that of the peers. He presided over the first parliament of Great Britain, but voluntarily abdicated his power with its dissolution, on the 1st of April, 1708, yielding up the chair at his own request to Sir Richard Onslow. The Duke of Somerset complained in the summer of the court not having consulted with the whole body of the whigs about so important a point as the choice of a speaker, but only with Mr. Smith, whose opinion, said the haughty peer, no man valued, and Mr. Compton, who, he believed was one of Harley's party.

Mr. Smith was returned for the pocket borough

[c] Parliamentary History, vol. vi.

of Andover in the new parliament, and appointed chancellor of the exchequer. In the following year, he was chosen one of the managers of Sacheverell's absurd impeachment. The overwhelming odium which that protracted trial brought down on himself and brother managers, afforded the queen an opportunity she had longed for, to free herself from a detested ministry, and Mr. Smith was doomed to witness the scorn which embittered the dismissal of the lord treasurer. A letter, we are told[d], was sent Lord Godolphin by the groom of the queen's stables—no very dignified messenger assuredly—to desire he would break his staff, the easiest method of ceasing to be minister, both to her majesty and himself. The chancellor of the exchequer happening to come in a little after, the lord treasurer broke his staff, and flung the pieces in the chimney, desiring Mr. Smith to be a witness that he had obeyed her majesty's commands. He afterwards commissioned his friend to take a letter and message to the queen, which he duly delivered, and at the same time surrendered his own office. It was at once accepted, as Harley had been for some time manœuvring to succeed.

The whigs had intended to propose Mr. Smith again for the chair, on the assembling of the new parliament; but, ascertaining the vast superiority in the opposite ranks (nearly two hundred of their own party had been unseated by the cry of "The church in danger"), withdrew their candidate. He subsided into the less influential but more lucrative office of one of the tellers of the exchequer, and, maintaining his principles, acquainted the House with an important fact in 1713, that "the debts of the civil list, then

[d] Swift to Archbishop King.

stated at £400,000, had not amounted to half that sum two months before the estimates were made. The deficiency had arisen from the payment of arrears due to the queen-dowager, and from the excess of secret service money." That a whig subaltern, who could tell such dangerous secrets must have held a slippery grasp of office, under a high-flying tory government, was too obvious to escape Swift's sarcastic notice, and is amusingly glanced at in Toland's Invitation to Dismal* (Lord Nottingham) in 1712—

> "Wine can clear up Godolphin's cloudy face,
> And fill Jack Smith with hopes to keep his place."

He contrived to retain his snug berth, however, till the accession of George I. dispelled all danger of removal; and, amid the crowd of candidates for place, was content to exchange ambitious hopes for lucrative security. Continuing stedfast to his principles and early connections, he joined Walpole in 1717 in opposition to the Stanhope cabinet; in 1722, opposed the bill for suspending the Habeas Corpus Act for one year, and warmly withstood the proposal of closing for the future the House of Lords against commoners. Though his contemporaries generally speak of the ex-speaker in a good-humoured, half-contemptuous way, as if no one greatly regarded or disliked him, he appears to have been, through a very long parliamentary career, a thorough-paced and useful partizan, indifferently honest, and would have left an unstained name in political annals, but for his speeches in favour of Sir John Fenwick's attainder, a cruel and unjust proceeding, defended by no state necessity, and for which few will believe that Mr. Smith did "heartily," as he states, "and according to his conscience, vote."

* Swift's Poems.

The Christian reader will reject with scorn his patent sophism, that "there have been extraordinary things done, even by God himself, for the preserving a community;" for if presumptuous man might draw his own fancied analogies from the counsels of the Inscrutable in his peculiar Jewish theocracy, to what crime and profaneness would not his daring precedents lead!

He left an only daughter, the Honourable Mrs. Smith, who is mentioned in the Suffolk Correspondence as one of the ladies of the bed-chamber to Queen Caroline.

The place held by the first commoner of England at that period was attended with less fatigue, but, at the same time, with less honour and deference, than has been bestowed of later years on the fortunate possessor. Without any change of administration, or visible alteration in the relative strength of parties in the House, the late speaker, on the meeting of a new Parliament, though sure of re-election, would prefer to join the ranks of his brother members, and leave the precarious dignity open to a fresh aspirant. Accordingly, in November, 1708, Mr. Smith, at his own suggestion, soliciting the safer patronage of the chancellorship of the exchequer, gave way to his friend and brother politician, Sir Richard Onslow, and took his place by the side of another ex-speaker, Sir Thomas Littleton, on the ministerial benches. Some discontented whigs would have preferred Sir Peter King, as a man of more stirring talent.

"The candidate they are for," writes Mainwaring,[f] "has ten times the talent of the other," but they were too wary to leave, by their dissensions, an opening for

[f] To the Duchess of Marlborough.

the tory, Sir Thomas Hanmer, to slip in. Nothing occurred to mar the unanimity of Sir Richard's election, but a piece of practical waggery on the part of Major-General Mordaunt. Lord William Powlet had in set phrase proposed Sir Richard Onslow, as a worthy man entirely zealous for the government, and very acceptable to the whigs, and Sir William Strickland had with all due gravity seconded the motion, when General Mordaunt suggested, by way of irony, that they should choose Mr. Jodrell, the clerk of the House, who, having been assistant to good speakers, to indifferent ones, and to the worst, seemed to be as well qualified for that station, as any body. But at last he supported the Lord Powlet's motion, commended Sir Richard's experience and integrity, and added "That, being possessed of a good estate, he did not lie open to the temptations that might bias persons who had their fortunes to make, against the interest of their country."[g] The tories, upon a surmise that the court or whig party would have been divided between Sir Richard Onslow and Sir Peter King, Recorder of London, had designed to put up Sir Thomas Hanmer, but being disappointed in that expectation, deemed it prudent to concur with the rest.

Sir Richard Onslow prayed the lords commissioners to make a better choice, in the usual terms of hypocritical self-abasement.[h] "My lords, the Commons of Great Britain, assembled by virtue of the Queen's royal writ, and in obedience to her commands, have elected their speaker. Being made the unworthy subject of that choice, I am obliged to tender myself for approbation. May my most humble intercession to your lordships to disapprove this choice obtain

[g] Parliamentary History, vol. vi. [h] Journals, vol. xiv.

pardon, proceeding not so much from form as a sense of my own inabilities." Sir Richard, when his request had been refused, as he knew it would be, harangued the House on his election, informing them in terms of false rhetoric, that he was by birth entitled to liberty and property, and by education taught so to value the constitution and government of England, as by the several laws established, both in church and state, that he would rather choose to expose himself to Egyptian bondage than be a prostitute in this his native free country; that he should esteem himself very happy, could he prevail with them to enter upon the despatch of public business more early in the morning, and with that decency and good order as becomes so great a senate. The honest, plain-spoken country gentleman moves as awkwardly through these rhetorical evolutions as the rough Sir Thomas Blount, described[i] to have ambled before the Queen, tripping his way mincingly to be knighted, "in yellow roses and crimson stockings," instead of advancing stoutly like a man and a soldier.

Sir Richard Onslow was the descendant of an old Shropshire family, which took its name from the manor of Ondeslow[j], and is now distinguished as the only family in England that has had the honour of returning three speakers to the House of Commons. An ancestor was speaker and solicitor-general in the eighth year of Queen Elizabeth. His grandfather, also Sir Richard, took part in the civil wars with the Parliament, the principles of whiggery descending from sire to son, but fell under the suspicion of sending money privately to the king after his imprisonment. He was charged in a pamphlet by one George Withers,

[i] Kenilworth. [j] Bray's History of Surrey.

with promoting the cause of the disaffected, to which he brought ample resources, his libeller alleging that Sir Richard had entire supremacy in the county of Surrey, disposing of elections, preferring deputy-lieutenants, making and unmaking justices of the peace, committee-men, colonels, and the whole staff of inferior officers, marshals, collectors, and treasurers, exactly as he pleased. This county dictator proved his influence in a way the pamphleteer would least approve, by complaining of the book to the House as a breach of privilege. They appointed a committee to examine the work, and, upon their report that the matter of 'scandalum magnatum' was proved, resolved that the rash author should pay Sir Richard £500 damages, and that his book should be burned, the common hangman, as usual, being deputed to perform that innocent ceremony.

Sir Richard was born in 1654, and had consequently attained the mature age of fifty-four, when appointed to the chair; gravity of deportment, and experience in the forms of the House, appear to have been considered such indispensable requisites in the choice of an influential country gentleman, or leading lawyer, for the speaker, that the majority of his predecessors had, in like manner, passed their grand climacteric. With the exception of the haughty Seymour, who vaulted into the coveted seat of honour when under thirty years of age, and Harley who was thirty-eight at the time of his election, all had acquired the gravity, if not wisdom, of age, and had painfully worked their way through committees and public business up to the chair. The worthy baronet, chosen in 1708 to preside over the debates for two years, forms no exception to this excellent arrange-

ment. He had been in the confidence of King William, and had received in 1693 the sum of £1000 for his majesty's immediate service. He was chairman of the committee which reported several valuable resolutions limiting the vexatious and unreasonable privileges of members. He also sat as chairman of the committee appointed in 1707 to investigate the frequent miscarriages at sea, which then alarmed the nation, partly through treachery, and partly through want of conduct. Several merchants were heard at the bar, and, on charging the managers of the navy with fraud and ignorance, were called to order by several members, who thought that their remarks pressed too hardly on Admiral Churchill, a member, but were desired by the chairman to proceed.

A commissioner of the navy himself, he reminded the House,[k] that "gentlemen should be tender of the honour of gentlemen," but would not connive at corrupt abuse, and induced the committee to pass some excellent resolutions against certain officers of the navy, who had exacted exorbitant sums of money from the merchants for convoys. An active member of the last parliament of Charles II., and representing his native county Surrey in all the parliaments of William and Anne, with one exception, he commanded great respect in the house, and had the conduct of several important measures entrusted to his care, amongst others the preparing a bill for the resumption of all grants by the crown since 1684—too sweeping a scheme to be carried—and the bringing in a bill, which was more successful, and has been attended with salutary consequences even to the present day, that no member shall be chosen for a

[k] Parliamentary History, vol. v.

county or city in England or Wales, but those who have a sufficient real estate.

Upon Sir Richard Onslow's fitness for the office of speaker we have conflicting testimony, but, relying on the Parliamentary annals, entertain no doubt that the favourable representation of Burnet is most consistent with the truth. "He was chosen speaker without the least opposition; he was a worthy man entirely zealous for the government; he was very acceptable to the whigs, and the tories felt that they had so little strength in this parliament, that they resolved to be silent, and to wait for such advantages as the circumstances of affairs might give them."

The note of Lord Dartmouth, a zealous tory, to this friendly sketch of the whig bishop, is an amusing instance of the defeature made by party, how the partizan can "spell backwards" one of opposite politics. "He was a very trifling, vain man, of a ridiculous figure, full of party zeal, by which he expected to go shares in the company's merits, though he brought little to the common stock, besides being descended from one of Oliver's lords, which introduced him at last into the House of Lords, notwithstanding the contemptible denomination of 'stiff Dick,' usually given him by the whole set, except Bishop Burnet and a few zealous non-conformists, who looked upon him as a man greatly gifted." The political conduct of an active party-leader must have been free from much stain, when a fault of demeanour is thus invidiously instanced as the characteristic deformity.

"Stiff Dick" appears to have been of a choleric temperament, being twice restrained[1] by order of the House from prosecuting affairs of honour with Sir E.

[1] Journals x. and xiii.

Seymour and Mr. Oglethorpe. Nor did he, when dropping into his well-cushioned seat, find it a bed of roses. We read in one of Lord Shaftesbury's letters,[m] November 1708: "The late speaker beset the new one; and he will have, I fear, a hard task, if this be not an easy session as our great news and glorious success abroad is like to make it." Of his attention to minute forms, which sat not ungracefully on the speaker, his distinguished nephew, who inherited the same particularity, has given the following narrative.[n]

"When the speaker, Sir Richard Onslow, went up with the House to demand judgment against Dr. Sacheverell, as the mace was going into the House of Lords before the speaker, the black rod endeavoured to hinder it, by putting his black rod across the door; on which the speaker said, 'If he did not immediately take away the black rod, he would return to the House of Commons.' The black rod desired him to stay a little, and he would acquaint the lords. The door was shut, and Mr. Speaker and the house staid without. After a little time the door was opened, and Mr. Speaker with the mace went in. As Mr. Speaker was going to the bar, the black rod attempted to interpose himself between the speaker and the mace; upon which the speaker said aloud; 'My lords, if you do not immediately order your black rod to go away, I will immediately return to the House of Commons.' Then Lord Chancellor Cowper directed the black rod to go from thence. Then Mr. Speaker with the mace went up to the bar. The black rod was then ordered to bring the prisoner, and the black rod was going to put him on the right hand of Mr. Speaker,

[m] Cooper, (second Lord Shaftesbury's) Letters.

[n] Note by Arthur Onslow in Hatsell.

who upon that said, 'If you don't order the black rod to go with the prisoner on the left hand of me, at some distance, I will return to the House of Commons.' Upon which the Lord Chancellor directed the black rod so to do, and then Mr. Speaker demanded the judgment, and the Lord Chancellor accordingly pronounced sentence upon the prisoner, kneeling at the bar."

In the meagre and tantalizing reports of the proceedings of the House, which the narrow jealousy then entertained of reporters has permitted to be handed down to us, nothing is recorded of Sir Richard Onslow's conduct as speaker, more memorable, than his giving, with grave and dignified propriety, the thanks of the House to Major-General Webb, for his eminent services at Wynnendale, and being the bearer of a premature address to the queen, that she would have such indulgence to the hearty desires of her subjects, as to entertain thoughts of a second marriage. The address was presented by the lord chancellor and speaker to the queen, on behalf of both houses, exactly three months after the death of Prince George of Denmark—rather too short an interval for grief, according to the more decent observance of modern times,—and is couched in terms not dissimilar to those entreaties to marry, with which her too zealous parliament-men were wont to importune Queen Elizabeth.

"Being truly and deeply sensible of the many and great blessings we have enjoyed, during the whole course of your majesty's most glorious reign, we do most humbly conceive we should be inexcusably wanting to ourselves and the whole kingdom, if we should neglect to use our most zealous endeavours

that those blessings may be derived down to future ages; and, therefore, with hearts full of the most profound respect and duty to your royal person, we most humbly beseech your majesty graciously to consider the universal desires and most humble supplications of your faithful subjects, that your majesty would not so far indulge your just grief as to decline the thoughts of a second marriage. This would be an unspeakable joy to your people, who would join their most fervent prayers to Almighty God to bless your majesty with royal issue; all of them concurring in this opinion, that no greater happiness can be desired for your kingdoms than that they and their children may long continue under the gentle and gracious government of your majesty and your posterity."

The queen, who was then in her forty-fifth year, and according to her discarded favourite, the Duchess of Marlborough,[o] consulted her heart less than her stomach, made an evasive reply. "The frequent marks of duty and affection to my person and government, which I receive from both Houses of parliament, must needs be very acceptable to me. The provision I have made for the protestant succession will always be a proof how much I have at my heart the future happiness of the kingdom. The subject of this address is of such a nature, that I am persuaded you do not expect a particular answer."

With more propriety and good feeling than her subjects exhibited, at least, in the equivocal compliment of their representatives, she declined all thoughts of a second marriage; and, that the memory of her deceased consort might not be too readily forgotten, protracted the royal mourning to what was considered

[o] Conduct of the Duchess of Marlborough.

by her nation of shopkeepers a most inconvenient length, and against a repetition of which a special act of parliament provided. The absurd impeachment of Dr. Sacheverell brought the parliament, over which Sir. Richard Onslow presided, to an untimely end. At the general election in November 1710, 270 changes took place among the representatives of the different constituencies, and the whig party dared not expose their weakness by proposing his re-election. For the first and only time in his parliamentary life, he was deprived of his quasi-hereditary seat for his native county.

Swift seized the opportunity of their complete rout to desert from the ranks of whiggism. In his journal to Stella, October 13, 1709, he writes, "I have done with the whigs, and they have, I hope, done with this kingdom for our time. They were sure of the four members for London, and they have lost three in the four. (They lost all four.) Sir Richard Onslow, we hear, has lost for Surrey, and they are overthrown in most places." Thus signally defeated, the ex-speaker joined his cashiered predecessors, Littleton and Smith, in the front rows of opposition, and exposed the measures of the new ministry with keenness and asperity. When secretary St. John in 1712 complained that the insinuations of Hampden upon the dilatory negotiations for peace highly reflected on her majesty and her ministers, and that some members had been sent to the Tower for less offences, Sir Richard Onslow made a spirited reply,[p] "That to suppose her majesty or her ministers to have any influence on the deliberations of that House was injurious to her, and a violation of their privileges."

[p] Parliamentary History, vol. vi.

During the violent intrigues, which immediately preceded and accelerated the queen's death, Sir Richard Onslow was sent over by the whig association to the Duke of Marlborough in Flanders, to hasten his return, which was so well-timed as to coincide with the day of her death, Sunday, August 1. Sunday though it was, the House immediately met, pursuant to the act which regulated the succession, for the exigency of the crisis brooked not an hour's delay. The speaker, Sir Thomas Hanmer, being absent, secretary Bromley moved that the House should adjourn to the Wednesday following, but Sir Richard Onslow resisted the motion, as time was too precious to be lost at so critical a juncture, and carried an amendment, (ministers' standing majority of two hundred had in twenty-four hours melted away) that the House should adjourn to the next morning. When the secretary moved the address of condolence, and expatiated on the great loss the nation had sustained, Sir Richard remarked "that the force of the address ought to consist, not in condolence only, but in congratulation, and in assuring the king of their firm resolution to support his undoubted title to the crown." The address was modified according to his wish.

The zeal of the faithful whig soon met with its appropriate reward. Immediately after the landing of George I. at Greenwich, he was appointed one of the lords of the treasury and chancellor of the exchequer. A leading member of the House, he was named as chief deputy by the Duke of Devonshire, high-steward, to administer the oaths on the assembling of parliament,[q] and, on the naming a committee of secrecy, which consisted of twenty-one, was

[q] Journals, vol. xv.

honoured with the greatest number of votes, 258, one higher than the next favourite, Sir Robert Walpole. But age and infirmity overtook the chancellor of the exchequer in the midst of his dignities. Resigning office in 1715, he was made one of the tellers of the exchequer during life, in the following year called up to the House of Lords by the title of Baron Onslow of Onslow, in the county of Salop, and died in December 1717. He was succeeded in his title and estates by his son Thomas Lord Onslow, who rather improved upon, than degenerated from, the hereditary talents of the family, and displayed considerable power of repartee in debate. A nobleman having asserted in 1721 in a warm discussion upon the disastrous South Sea project, that he verily believed the present calamity was a judgment of God upon the nation for the blasphemy and profaneness it had been guilty of, Lord Onslow retorted that the noble lord must, on his own doctrine, have been a very great sinner, for he had lost so considerably by the South Sea! 'The first Lord Onslow was uncle to the celebrated Arthur Onslow, "clarum ac venerabile nomen"' the greatest among the great who have presided over this national assembly of gentlemen.

The tory parliament of 1710 found an admirable president in Mr. W. Bromley, member for the University of Oxford, who carried his appointment by acclamation. This excellent specimen of the English country gentleman, both in his prejudices and virtues, was the eldest son of Sir William Bromley, of Baggington in Warwickshire, knight of the Bath, and heir of a large landed estate. Educated in the orthodox bowers of Oxford, Mr. Bromley is thus drily

chronicled in the annals of honest Anthony Wood.[r] "Matriculated 1679, ætatis 15—went home and married—buried his wife—travell'd—was at Rome in 1688, and heard there of the Prince of Orange's invasion, before it was heard in England. Chosen knight for Warwickshire for the parliament of March 1689." He made a tour of the continent immediately on taking his degree, and published an account of his travels, a proceeding at that period of some risk and rarity. The title-page shews that he considered printing an act of condescension. "Remarks on the Grande Tour of France and Italy lately performed by a person of quality, 1692."

The following short extracts evince the liberality and sound sense of the young tourist, who, good tory as he was, appears to have been an advocate for the ballot, and a candid historian of all he saw. His book commences with almost ludicrous simplicity. "Going from London in the Dover coach, I baited at Dartford, a little market town in the county of Kent, and lodged at Rochester, an episcopal seat in the same county." We may pass over the home tour to admire with the author what he saw and heard on the continent. "At the Medical College at Montpelier, when they are made doctors, they swear themselves not to be illegitimate, nor ever to have exercised any mechanical trade, as if one illegitimate or mechanic would be a disgrace to that honourable profession." "In the Doge's palace at Genoa, I observed their ballotting boxes, an excellent method for freedom in voting, being impossible the suffrage of any particular person should be known. Every body has a ball like a white thread button given him, and

[r] Athenæ Oxonienses.

putting his hand with it into the common mouth of the box, can, without any discovery, cast his ball on either side the partition that is made in the box: the one half is coloured with or and the other argent; this negative, and that affirmative."

"[s]A little west of St. John Lateran church is the Scala Sancta, the stairs our Saviour went up into the judgment hall; they are of white marble; on one of them, it is generally believed, some of our Saviour's blood dropped after his scourging; it is covered with a brass grate, through which a hole is wore in the step by devout rubbing of beads, &c., but no stain that I could perceive, though the Roman Catholics saw it plainly! Discoursing of these stairs, how they had been preserved and brought hither, Cardinal Howard ingenuously confessed to me that they were not the true stairs our Lord went up into the judgment hall. He said the error was not discovered for some time after they were fixed here, and the people possessed with an opinion they were the true stairs; and then it was not thought advisable to undeceive them, their devotion being, however, very commendable. All go up them on their knees, and the devout say an 'Ave Maria,' and kiss each step; they descend by others on each side."

These shrewd remarks of an intelligent observer would not betray much superstition to a candid reader; but the following unlucky passages were deemed at the time proof "strong as holy writ" that the author must have been a papist and jacobite at heart: "In the evening I was admitted to the honour of kissing the pope's slipper, who, though he knew me to be protestant, gave me his blessing and

[s] Bromley's Grand Tour.

said nothing about religion!" "In the church of Loretto, near the Madonna, are two angels; that on the right hand is all of pure gold on a pedestal of silver, with a heart also of gold in its hand, close set with pearls and diamonds; the great diamond in the middle weighs forty-two grains. On the top of the heart is a lamp of gold always to burn; for the queen of England, who gave this angel, also gave two hundred crowns for her lamp to burn for ever, which is the usual sum to found one. Betwixt the angel's legs are the arms of England, and over them a crown of gold beset with rubies. The angel in gold cost fifty thousand crowns. The virgin sent the queen, in return, one of her vests of silk handsomely embroidered, not very rich nor valuable in itself, but coming from thence, and having her benediction, made it very acceptable. . . . St. John Lateran is a great structure, and so ancient that it is called the mother of all the churches in the world. I saw in the cloysters a large marble stone supported by four pillars, said to be the measure of the just height of our Saviour, and no man was ever exactly the same. I wanted about my hand's breadth."

"In the gallery at Florence, among the pictures, but not by the first hands, are our King Charles II. and his queen; King James and his queen; and *the Prince and Princess of Orange.*"

The obloquy to which this little work exposed him with men of opposite politics, might have recalled to his mind the malicious wish of Job, "Oh that mine adversary had written a book!" He withdrew the copies that remained from the booksellers' hands soon after publication; but a second edition was published without the author's permission, upon an

occasion when it was most likely to prove a source of annoyance and injury, when he was first proposed for speaker in 1705. There was added a table of contents, turning Mr. Bromley's observations into ridicule; a device not without humour, attributed erroneously at the time to Mr. Walpole.

"A table of the principal matters contained in this book:—

"Bologne, the first city on the French shore, lies on the coast.

"Crosses and crucifixes on the road in France, prove it not England.

"Eight pictures take up less room than sixteen of the same size.

"How asses are received and entertained at the villas near Marseilles.

"February an ill season to see a garden in.

"Forty coaches waiting at a church door.

"The author cannot perceive the stains of five drops of blood that fell from a picture of the virgin Mary, which was wounded in the eye by an unlucky boy.

"The author kissed the pope's slipper, and had his blessing though known to be a protestant; but not a word of religion.

"Dr. —— made a house in Denmark remove out of its place, before the king, without any visible help, and made a statue to walk, and move both legs and body, which last, he privately told the author, was done chiefly by mercury.

"A white parrot with a green cap, kept at Rome 150 years, but wants confirmation.

"Jews at Leghorn not obliged to wear red hats." &c., &c.

The late Dr. Parr had collected in his valuable library Bromley's own copy, enriched with the following curious autograph on the fly leaf.[t] "This edition of these travels is a specimen of the good-nature and good manners of the whigs, and, I have reason to believe, of one in the ministry, very conversant in this sort of calumny, for the sake of publishing the table of the principal matters, &c., to expose one, whom the gentlemen of the Church of England designed to be Speaker of the House of Commons in the Parliament that met October 25, 1705. When, notwithstanding the whigs and court joining to keep me out of the chair, and the great violence towards the members, turning out some and threatening others, to influence their votes, I had the honour (and I shall ever esteem it a greater honour than my competitor's success) to have the suffrages of 205 disinterested gentlemen for me, such a number as never lost such a question before, and such as with the addition of those that by force, and contrary to their inclinations, with the greatest reluctancy voted against me, must have prevailed for me.

"This printing my book was a very malicious proceeding; my words and meaning being plainly perverted in several places, which, if they had been improper, and any observations trifling or impertinent, an allowance was due for my being very young when they were made. But the performances of others, not entitled to such allowances, may be in like manner exposed, as appears by the like tables published for the travels of Bishop Burnet and Mr. Addison."

It is no slight praise to say that his work will not

[t] Bibliotheca Parriana.

bear a disadvantageous comparison with the tour of Mr. Addison to which it refers, from the title-page to which the following matter for small mirth was extracted.

"A table of all the accurate and new discoveries of the most learned and ingenious Mr. Addison's book of travels:—

"Bridges at Venice are without any fence, which would be a great inconvenience to a city less sober. P. 87.

"There are, indeed, many extraordinary ruins at Naples and Rome, but the author believes a traveller would not be so much astonished at them, did he find any works of the same kind in his own country.

"The holiday clothes of the people at Rome go from father to son, and are seldom worn out till the second or third generation, so that it is a common thing to see a countryman in the doublet and breeches of his great-grandfather."

But, however superior Mr. Bromley's book of travels might be to captious criticism, his mention of the Prince of Orange, at a time when the higher title was so much discussed, discloses the reluctance of a jacobite to acknowledge William as "his lawful and rightful" king. Returned for Warwickshire in the second parliament of King William, he declined voluntarily, together with ninety-one other members, to sign the association, in which these words were insisted on. The *squire*, according to his pet name in Swift, embodying the humours and feelings of the old English gentry, looked with cold distrust upon the liberal king and his liberal advisers. When he refused to pass the place bill, Bromley spoke with force and freedom. "The preamble of the bill declared former corruptions and suspicion of the like now; the bill

offers a remedy, but we are denied it, which speaks this language; 'that the king will have us still corrupt.' We have done well for religion, but all in vain if we enjoy not our liberties!"

Mr. Bromley's attack on the memory of the king was still more unjust. "The Duke of Marlborough," he said, "has signally retrieved the ancient honour and glory of the English nation." *Retrieved* forsooth! well might the poet[n] resent this solemn taunt on a departed hero, and ironically predict the coming of the golden age—

> "Now all our fictions, all our fears shall cease,
> And tories rule the promised land in peace;
> Commanders shall be praised at William's cost,
> And honour be retrieved before 'tis lost!"

But a sudden change was about to come o'er the spirit of the tories to the duke. That great man and great intriguer, persuaded by the duchess and his own wavering ambition, deserted to the whig camp, and neither Blenheim nor Ramilies had sufficient virtue, with ardent politicians, to expiate the sin of his desertion. The resentment of a powerful party, with Bromley at their head, pursued him even to those tented fields, nor ceased till they had mildewed all his triumphs, and branded the hero of a hundred victories, the earl, duke, prince, with a charge of peculation. Amongst other virulent observations against the termagant duchess, Mr. Bromley compared her to Alice Peers, in King Edward's time; and when the thanks of the House were presented to Major-General Webb for his services, he embraced the opportunity of invidiously remarking "that he did not disapprove the custom, which of late years had

[n] Walsh.

been introduced, of returning thanks to such generals as had performed eminent services, especially when they received those compliments as modestly as the worthy member to whom they were now given had done. But it was with grief he observed that a certain commander, on whom not only the thanks of the House but also great rewards had been bestowed, appeared yet to be unsatisfied!"

Marlborough had attributed the merit of this achievement at Wynnendale to General Cadogan, and was loudly censured for thus attempting to depreciate the worth of a deserving officer. How deeply the duke chafed at these attacks, appears from his own correspondence and that of his satellites. Mainwaring had predicted in a letter to the duchess (1708) that he would escape such annoyances.[v] "No envy of faction can reach a man that has gained three such battles, and, if he brings home a peace next winter; it will be as impossible for his enemies to hurt him, as for the wind to blow down Mr. Bromley's thick walls." But when his augury proved untrue, the comments of detractors appear to have been noticed by the duke with more petulance than might have been expected from a commander proverbially famed for good temper; but, like the supposed patience of Sir Isaac Newton on the burning of his manuscripts, the charm of equanimity under great provocation is broken, when examined and shewn to rest merely in delusive tradition.

In December, 1708, the Duke writes home, "Mr. Bromley's and other gentlemen's good-nature, joined with the trouble I have here, makes me quite weary of serving." In May, 1709, he writes in the prospect of

[v] Coxe's Marlborough.

immediate peace: "I think this matter is brought to so happy a conclusion, that even Mr. Bromley will hardly be able to find fault with this peace." To Godolphin he confided his griefs still more openly. "I don't wonder at Mr. Bromley's factious and ill-natured proceeding, since his anger proceeds from knowing that I will always serve my country to the best of my understanding, and that I shall never desire his friendship; but what mortifies me is, that gentlemen who do approve of my services could be silent." Lord Godolphin had written previously, "I wish as you do, that the whole House of Commons took their turns at the citadel of Tournay. I am apt to believe they would be much tamer creatures when they came back again."

But the enemies whom his tergiversation had provoked were not tamed till, instead of annual addresses of thanks, they had disgraced the duke with criminatory resolutions, wounding his feelings most sensibly, for they touched his pocket as well as his pride, and compelled him to become a voluntary exile. Next to the duke and the conduct of the war, the game which the high church party hunted with most ardour, appears to have been dissenters and schism. The confessed predilections of William for a comprehensive communion alarmed the fears of the friends of the establishment, and the whole of his reign was marked by struggles to maintain her rights—of Queen Anne's to strengthen her supremacy. The occasional conformity of dissenters was the most fertile source of conflict during the earlier part of her reign. The House of Commons, in which the high church party predominated, made repeated attempts to carry through an act for preventing all persons who had taken the

sacrament, as a test for office of trust, and who again frequented any dissenting place of worship, from continuing to hold their employments. Such a bill was sent up to the Lords in 1702, and rejected by them with indignation.

A renewed bill was introduced into the Commons in 1703, by Mr. Bromley, seconded by St. John, and carried after a long and warm debate, the House not rising till five. It was lost in the Lords again. The queen wrote to the Duchess of Marlborough in December—it forms a portion of the correspondence under the affected title of her unhappy Morley to Mrs. Freeman.—"To ease your mind, I must tell you Mr. Bromley will be disappointed, for the Prince (of Denmark) does not intend to go to the House when the bill against occasional conformity is brought in." The queen adds this ominous remark to her favourite: "I can't forbear saying that I see nothing like persecution in this bill."

Nothing daunted by defeat, the church party made a third attempt, in 1704, to carry their favourite measure. Aware that there was no chance of the bill passing by itself through the Lords, they resolved, after long consultation, not without much scruple and reluctance, to attempt the tacking of it to the land-tax bill. Mr. Bromley was chosen to lead the storming party in their unconstitutional adventure. He urged, "that the practice of occasional conformity was such a scandalous hypocrisy, as was no way to be excused upon any pretence whatsoever. That it was condemned even by the better sort of dissenters themselves. That the employing persons of a different religion from that established by law had never been practised by any wise government, and was not allowed

even in Holland. That the sacramental test was appointed by the wisdom of the legislature, to preserve the established church, which church seemed in as much danger from the dissenters at this time, as it was from papists when the act was passed. That this law being so necessary, and having been twice refused in the House of Lords, the only way to have it pass was to tack it to a money bill. That it had been an ancient practice to tack bills that were for the good of the subject to money bills, it being reasonable that, while grievous taxes were laid upon the subject for the support of the crown, the crown should in return pass such laws as were for the benefit of the people." It was well contended, against such fallacious doctrine, that the Lords had passed a solemn resolution never to admit of a tack to a money bill; that such tacking would deprive that House of their negative voice, as they could not reject one part of a money bill and accept the rest, and that the certain loss of the supplies would endanger the continuance of the war. Several high churchmen yielded to the force of these objections, and the tack was rejected by a majority of 251 voices against 134. Deprived of this factitious aid, the bill against occasional conformity was sent up to the Upper House, debated there in the presence of the queen, and thrown out by a majority of thirty-one, the greater number of the bishops voting against it, as the episcopal bench was then chiefly filled with low church divines.

Walter Scott[w], in his edition of the Somers' Tracts, justly rebukes this factious endeavour of Mr. Bromley and his friends, observing, "If the House of Commons, to their legitimate and constitutional right of

[w] Somers' Tracts, vol. ix.

exclusively proposing supplies, were entitled to qualify their grants, by tacking any favourite measure of a different description to their money bills, the whole power of the state would be thereby engrossed into their own hands, and this country would become a virtual republic." The voice of the nation was loudly raised against the scheme; and the minority in favour of the tack became so odious, that nearly fifty were unseated at the next election, Bromley's martyrs. As a curious test of the politics of the respective counties, it may be observed that the members for Oxfordshire, Cheshire, and Warwickshire, with the boroughs, were tackers; those for Gloucestershire, Huntingdonshire, and Bedfordshire, anti-tackers to a man. But, however unpopular with the country, Bromley lost no favour among his Oxford constituents, and received their hearty thanks. Unanimously elected their burgess in 1701, he continued to represent their wishes and feelings for twenty-six years, till his voluntary resignation in 1727, when he retired from public life, and Lord Cornbury was elected his successor. In 1711 he headed a deputation from the university, to present the thanks of convocation to Lord Nottingham "for his most noble defence of the Church of England, contained in his answer to Mr. Whiston's letter concerning the eternity of the Son of God and of the Holy Ghost," and also to the Bishop of Chester, for having asserted the rights, privileges, and dignities belonging to university degrees, in his book entitled "The Bishop of Chester's case relating to the wardenship of Manchester College." Both the spiritual and lay peer had been strenuous advocates for the tack.

But the Church of England was at length triumph-

ant. The absurd impeachment of Dr. Sacheverell had roused the prejudices of all, from the queen on the throne to the beggar at her gate, in favour of the clergy, whom they fancied to be assailed in the doctor's person; and when a parliament, strongly attached to the church, met in November, 1710, its faithful champion was placed at their head[x]. Sir Thomas Hanmer proposed Mr. Bromley, "eminent for his true and unaffected zeal for the protestant succession in the house of Hanover, and his firm adherence to the Church of England as by law established; and one, who by a long service in parliament, had acquired great experience in the rules and orders of the house, and had also given the world an equal experience of himself."

Swift gives the following eccentric description[y]:— "November 25. I was to-day to see the parliament meet, but only saw a great crowd, and Ford and I went to see the tombs at Westminster, and sauntered so long, I was forced to go to an eating-house for my dinner. Bromley is chosen speaker, *nemine contradicente*. Do you understand these two words? And Pompey, Colonel Hill's black, designs to stand speaker for the footmen. I am engaged to use my interest for him, and have spoken to Patrick to get him some votes."

Naturally grave and solemn, the speaker presided with dignity and effect over the strong debates of a most eventful period, upwards of three years. The House testified their esteem for his private worth by adjourning six days on the sad occasion of the death of his only son, "out of respect," as it is written in the journals, "to the father, and to give him time

[x] Journals, vol. xv. [y] Journal to Stella.

both to perform the funeral rites and to indulge his just affliction." This reciprocal good feeling unluckily met with a rough shock at the very close of his speakership. A month before the prorogation of parliament, in 1713, the treaty of commerce with France underwent strenuous discussion, and General Stanhope, to show the impolicy of it, quoted the preamble of an act of parliament made in the thirteenth year of Charles II.'s reign, that runs thus: "Forasmuch as it has been by long experience found that the importing of French wines, brandy, linen, silk, salt, and paper, and other commodities of the growth, product, or manufactures of the territories and dominions of the French king, has much exhausted the treasure of this nation, lessened the value of the native commodities and manufactures thereof, and caused great detriment to this kingdom in general: Be it therefore enacted, &c."

The speaker supposing that Mr. Stanhope had made a mistake, said, "There was no such thing in that act. But General Stanhope insisted that the clerk should read the said act, and his quotation appearing to be right, he and other members animadverted with some vehemence on the speaker's blunder." This little incident, it has been truly remarked by a late noble historian[z], most strongly shows the mutual animosities and rancour of the times. In the house any rude interruption from the speaker, or any harsh invective against him, are perhaps the very furthest extremity to which its party-spirit ever runs. Soon after the recess, the speaker was readily tempted by the offer of a seat in the cabinet, as secretary of state, to quit his uneasy post.

[z] Lord Mahon's History of England, vol. i.

By the desire of Harley, who was anxious to reconcile the wavering Sir Thomas Hanmer to his ministry, he opened a negotiation with the baronet in the following letter, to induce him to become his successor :—

"Sir,

"I have undertaken to convey the enclosed to you, which I am told expresses lord treasurer's earnest desires that you would come soon to town to concert the proper measures for supporting our common interest. Some resolutions will be necessary, previous to the approaching elections, in which you ought to be consulted. I am sure I shall not be willing to come into any without you, and therefore wish that you may be prevailed upon to come up. In the mean time, I must acquaint you I am unexpectedly pressed to take that post, which I know you would fill to much greater advantage, and which, besides other objections, having been privy to the applications made to you, I can never think of without your consent and approbation, and an assurance of the continuance of your friendship to me in the discharge of it. Though I have no direction to mention it to you, yet I cannot forbear letting you know, I find it is much desired (and I am satisfied nothing would be more acceptable to our friends) that you would take the chair of the next House of Commons, or to have you chancellor of the exchequer, as will be most agreeable to you. But these things may be discoursed and considered when we meet, which I shall hope to hear will be in a few days, because it will be for the service of the public as well as greatly to the ease of my mind, who want such an

adviser under one of the greatest difficulties that ever affected, Sir,

"Your most faithful and obedient servant,

"W. B."[a]

Having accomplished his object, Secretary Bromley essayed a new piece of diplomacy in the following curious letter, in which he would fain have palmed off on the speaker elect, but with very different degrees of earnestness, both a chaplain and his two carriage horses.

"Sir, "*Whitehall, September* 22, 1713.

"I hope I shall have your pardon for the liberty I am going to take. It is, at the importunity of the dean and several other of our Christ Church friends, to recommend to you, if you are not otherwise determined in your thoughts, Dr. Pelham to be your chaplain as speaker of the next House of Commons. It is with reluctancy I own I do this, because you know men very well, and can best judge who is fittest to be made the object of your favour in this particular. You'll smile at the transition from a chaplain to coach-horses. I have a pair that drew my great coach, and believe you cannot be better fitted, and I offer them to you before I dispose of them, one especially is a very fine horse, and better than sixteen hands high, you shall have him or them on reasonable terms. Our elections are now almost over, and from them it is plain we shall have an House of Commons with a vast majority of gentlemen of the same principles as in the last. The queen I can assure you is in a very good state of health, she is on her legs

again, every day abroad in her chaise and sometimes hunts. The town is very empty, and the clamour of the faction is that Dunkirke is not yet demolished.

"I am, with the greatest truth, Sir,

"Your most faithful humble servant,

"W. B[b]."

This courtier-like backing of a friend did not succeed: we know not whether his more energetic recommendation prevailed in disposing of the carriage horses!

It may be inferred from the warm praises of Bolingbroke, that he rather sided with that dangerous intriguer than with the treasurer in the negotiations for peace, and would probably have gone as far as Harcourt, if not Sir William Wyndham, in restoring, upon conditions, the Pretender. But for his horror of popery, Bromley would have rejoiced to see the Stuart reinstated on the throne of his ancestors; nor can we wonder at an old tory gentleman looking with strong distaste to the settlement of the crown upon a German family, unacquainted alike with our language, our manners, and laws. He conformed with the ministerial fashion of writing to the Princess Sophia, but his letter was comparatively cold and formal[c].

"Madam,

"Since my son goes with Mr. Harley to Hanover, I beg your highness will permit me to do myself the honour to assure you of my sincere and unfeigned regards for your interest and those of your serene family, on which the future happiness of my

[b] Life of Sir Thomas Hanmer by Bunbury.

[c] Bolingbroke Correspondence.

country depends. This opinion will always engage me to be with the most profound respect,

"Madam, &c.,

"*Whitehall, Feb.* 12, 1713-14." "W. B."

The lead of the House slipped from the tory baronet immediately on the death of the queen. He was not permitted to name the term of adjournment; his address was deemed too lugubrious by the merry mourners, who regarded the treasury bench as their own in perpetuity, and an amendment, in which congratulation took the place of condolence, was adopted; the rumours of his retaining office as teller, or chancellor, of the exchequer[a], died away, and the dismissed secretary escaped in safety to participate in the general proscription of his party. He had pressed the expulsion of Walpole as an imperative measure, and that minister in his turn would not listen to any terms of accommodation with the fallen statesman.

For some years he came out on field-days in the House with a set oration against the government, and emphatically denounced whig tyranny, Hanoverian alliances, a standing army, the septennial act; but, finding all opposition futile, he withdrew to that retirement for which we may conjecture from his *sobriquet* of "the Squire" that he was well qualified, and died at his seat at Baggington, in the summer of 1732, in his sixty-ninth year, a not unfavourable specimen of the good old English gentleman.

[a] Barillon.

CHAPTER VI.

THE pedigree of the Hanmers of Hanmer, begins about the reign of Henry III.[a] The family is distinguished in the marches of North Wales, by their connections with Glyndur and the Tudyrs. In the reign of Charles I., Sir Thomas Hanmer, the second baronet of the family, attended on the person of the king as cup-bearer. The speaker, descended from this illustrious ancestry, was born the 6th of September, 1677 at Bettisfield Park, the seat of his grandfather, and educated at Westminster and Oxford, under Dr. Robert Friend. Tall and handsome in his person, graceful and dignified in his manners, a stately model of Sir Charles Grandison, he captivated Isabella, widow of Charles the first Duke of Grafton, and was married to her, about ten years his senior, at the early age of twenty-one.

A description of this lady has been given by two close observers at different periods of her life, and the contrast of opinion painfully marks the distinction between youth and age. In his diary of August 1st, 1672, Evelyn notes down. "I was at the marriage of Lord Arlington's only daughter—a sweet child if ever there was any—to the Duke of Grafton.

[a] Life by Sir H. Bunbury.

The Archbishop officiated. I took no great joy at the thing for many reasons." The editor subjoins in a note, "She was then only five years old!" The poor child thus early affianced was actually married seven years later. Under the date of November 6th, 1679, Evelyn records: "Was this morning at the re-marriage of the Duchess of Grafton to the duke, she being now twelve. This sweetest, hopefullest, most beautiful child, and most virtuous too, was sacrificed to a boy that had been rudely bred, without anything to encourage them but his majesty's pleasure. I pray God the sweet child find it to her advantage, who, if my augury deceive me not, will in a few years be such a paragon as were fit to make the wife of the greatest prince in Europe." Years rolled on: this paragon became a widow, condescended to marry again a plain country gentleman, and encountered Swift, who gives the following not very complimentary notice of the lady in his diary: "I dined to-day with Sir Thomas Hanmer; his wife the Duchess of Grafton dined with us. She wears a great high head-dress, a fontange, *and looks like a mad woman in it!*" The private account-book of this grand dame is preserved in the late memoir of his ancestor by Sir Henry Bunbury, and contains several curious entries. For example, "May 1712. Lost to Sir Thomas (her husband) at cards £7. 10*s*. 6*d*. To the Mobb, 5*s*. For Brandy 5*s*." The last item unluckily increases with the advance of age. Her young husband after contesting Flintshire without success in 1697, was more fortunate in 1701, and, being chosen both for Thetford in Norfolk, and Flintshire, took his seat in the House as representative of that county in his 25th year.

With some rare exceptions he abstained from

taking an active part in debate, till the triumph of the tory party in 1710, when his character, rank, and talents, placed him by the side of Bromley, as their joint leader. Once indeed he had departed from his habitual prudence, and, seconded by Bromley, had moved that the next successor to the throne should be brought over; but the measure proved so obnoxious to the queen, who described it as planting her coffin full in her view, that the wary baronet shrunk from mooting anew such hazardous propositions. He drew up a bill, salutary in itself, and acceptable to the country-gentlemen, for qualifying justices of the peace, that no county magistrate should act without possessing a landed estate of at least £ 100 a-year in value. The evil of indigent persons being thrust into the commission on accouut of their subservient party politics, who trafficked penalties, and bartered the duties of the office for money, was checked by this statute, but not wholly removed. Some thirty years later, we read in the Orford Correspondence of a strong solicitation from Sir Robert Walpole in behalf of a friend, that the chancellor would insert his name in the commission for Middlesex; and the chancellor's excuse that, as he filled the situation of organist for a salary at a parish-church, he was scarcely of the proper station!

After proposing his friend Bromley to be speaker of the congenial parliament which met in Novembe 1710, he was chosen chairman of the committee for drawing up a representation of the state of the nation to the queen, enlarging on all the false steps of the late ministry in the conduct of the war; an elaborate and stringent memorial, which was presented to her majesty by the whole House. Better qualified to

recite a king's speech off-hand, than to compose a state document that could be read, the chairman readily accepted the secret services of Swift, who had been recommended to his notice by the lord treasurer to season a tiresome manifesto, and enliven dull facts with poignant satire. The mystery with which the progress of their joint labours is glanced at by the principal craftsman may be detected through its thin disguise in Swift's journal, and is amusingly characteristic. "February 20th. The secretary Bolingbroke I suppose was helping him about it to-day. I believe it will be a pepperer." "February 21st. I was engaged at seven to go to Sir Thomas Hanmer, who desired I would see him at that hour. His business was that I would help him to draw up the representation, which I consented to do; but I do not know whether I shall succeed, because it is a little out of my way." "February 22nd. I was with Hanmer this morning, and there was the secretary and chancellor of the exchequer, (Henry Boyle,) very busy with him, laying their heads together about the representation." "March 5th. The representation is printed. I have not seen it yet, it is plaguy severe, they say." This disguise is maintained by Swift in his history of the four last years of Queen Anne. "This representation, supposed to be the work of Sir Thomas Hanmer's pen, is written with much energy and spirit, and will be a very useful and authentic record for the assistance of those who shall at any time undertake to write the history of the present times[b]." Had Swift's own share in the document been withdrawn, it might have slept undisturbed with others of its race in the State Paper Office. We learn from the Bolingbroke correspond-

[b] Parliamentary History, vol. vi.

ence how assiduously his friendship was courted by ministers. On his visiting Paris in 1712, the secretary St. John indited a letter. "If I have the honour of a line from you, pray give me an account of Mat's (Prior's) private life. Once I was in the gentleman's secret, but his last despatch contains in almost a ream of paper nothing but solemn accounts of business, such as made me expect to find Joe Warden instead of Matt Prior at the last line of the voluminous epistle. We hear much of a certain Chloe, who has supplanted the nut-brown maid." The presence of the tory baronet in parliament was too important to the ministry to permit a long absence on the continent. "Sir Thomas Hanmer, having in a manner asked whether the queen approved or not of his going into Italy, I sent him word by her majesty's order, that she hoped she should have had his aid in this session, which certainly will be a very nice and difficult one to manage.[c]" The tractable courtier returned accordingly in good time to England. "He comes to you," writes Prior, "in very good humour and very much satisfied, as well with what he has seen done on our part as with the civilities which he has received from this nation, in which you know they never fail." Swift, on the contrary, asserts that the baronet was much out of humour, full of doubts and fears. There was some intention at this time of making him secretary of state in the room of Lord Dartmouth, but the design proved abortive.

However decided an enemy to the continuance of the war, and firm friend to the Peace of Utrecht, Sir Thomas was too independent a member to concur in all the measures of government. Originally favourable

[c] Bolingbroke to the Duke of Shrewsbury.

to the bill for settling our commerce with France, according to the 8th and 9th articles of the Treaty, he was convinced by the petitions of the merchants and the arguments of commercial men that an open trade would be prejudicial; and made an elaborate speech against the bill, declaring that, "while he had the honour to sit in that House, he would never be blindly led by any ministry, neither on the other hand was he biassed by what must weigh with some men—the fear of losing his election: but that the principles upon which he acted were the interest of his country, and the conviction of his judgment." This dignified address is said to have made a great impression on many of the members, and to have mainly contributed to the rejection of the bill, which was carried against ministers by a narrow majority—194 to 185. There were illuminations and public rejoicings in almost all the leading towns, even in London and Westminster;[d] and Hanmer became for the hour the idol of the mob, uniting in his favour the party cries both of high church and free trade.

By the immediate friends of ministers his imputed tergiversation was visited with mixed feelings of wonder and displeasure. The question of Vanessa to Swift, "Are you not prodigiously surprised at Sir Thomas Hanmer and Lord Anglesea?" was echoed through the clubs and coffee-houses, and ascribed by some to his disappointment at not being offered the seals, by others to a secret communication from the treasurer, who preferred the immediate overthrow of the scheme in the Commons to a vexatious discussion and final rejection in the Lords. The courtiers could freely guess any motive but the strange conceit, that a

[d] Boyer's Annals of Queen Anne.

country gentleman of that age would vote and speak independently and from conviction. Their coldness continued till the dissolution of parliament, a few months afterwards, when a partial reconciliation was patched up between Hanmer and the ministry by his consenting to take the chair of the House of Commons, when the new parliament should be assembled. On the 14th of February, 1714, he was unanimously elected speaker, and his old friend Mr. Secretary Bromley congratulated the House and the public, in not very felicitous diction, upon the good choice they had made of one who brought with him abilities, not only to fill, but to adorn the chair. An amusing incident served to diversify the set apologies and formal self-abasement of the embryo speaker. The celebrated Richard Steele had found for the first time his way into the House, and could not resist this tempting opportunity of making a civil speech. But he bore the brand of whig authorship upon him, in an assembly crowded with country gentlemen, and members of the October Club, and experienced at their hands a reception to which his own *naïve* description can alone do full justice. "After two or three gentlemen had proposed Sir Thomas Hanmer for speaker of the House of Commons, Mr. Steele took upon him to say he had the same honourable sentiments of that gentleman in the following words :[e]

'Mr. Jodrell,

'At the close of the last parliament, her majesty was graciously pleased to declare from the throne, that the late rejected bill of commerce between Great Britain and France should be offered to this House. That

[e] Steele's Vindication of himself.

declaration was certainly made that every gentleman who should have the honour to be returned hither might make himself master of that important question. It is demonstration that was a most pernicious bill, and no man can have a greater merit in this House, than his, by whose weight and authority that pernicious bill was thrown out. I rise up to do him honour, and distinguish myself by giving him my vote for that his inestimable service to his country.'

"It will be impossible for the reader to conceive how this speech of his was received, except he has happened to have been at a cock-match, and has seen the triumph and exultation which is raised, when a volatile, whose fall was some way gainful to part of the company, has been necked. At the mention of the bill of commerce, the cry began; at calling it pernicious, it increased; at the words, 'Doing him honour,' it grew insupportably loud; but, having no reason for being confounded for other people's folly or absurdity, Mr. Steele bore the insolence well enough to speak out what he intended. He had hardiness enough to do it, from a resolution which he had taken to govern himself by, when he went into the House, which was, to prefer the fame of an honest man to that of an orator. I must confess I stand in some amazement to find where the ridicule lay in the words 'I rise up to do him honour,' the natural meaning of which I take to be, shewing him respect, and not implying that it is an honour to him, it is I who do him that respect; however, were it taken in the latter sense, in which Mr. Steele really did not intend it, I do not see the absurdity there would be in it; he does not deserve to sit in that House who does not believe his esteem an addition to the person's reputa-

tion on whom he bestows it; for the good opinion of an honest man is an honour to the greatest man living. At the same time, Mr. Steele does not attribute this particular outrage to the House, any further than they ought to have suppressed it, and severely observed upon it, by turning out the offenders, who, it is supposed, were a parcel of rustics who crowded in with the members, before the election of the speaker, from a received error, that there is no authority in the House till he is chosen. As he came out of the House, he could hear nothing but those loud critics, talking to one another, 'Oh, it is not so easy a thing to speak in the House'—'He fancies because he can scribble'—and the like deep animadversions!"

Poor Steele deserved a better greeting, for his remarks were rather based on good-nature than presumption, and appear to have been misunderstood; his phrase, "To rise up to do one honour," being a scholar-like rendering of the '*assurgere alicui*' of the Latin tongue. But he was too obnoxious a partizan writer to meet with a fair hearing, or to be permitted to continue a member. The petition against his return being too late in the list to promise his enemies a speedy removal, he was arraigned three weeks afterwards for writing a libel ("The Crisis") that he never wrote, but of which he had too much spirit, having once adopted it, to repudiate the authorship, and was expelled the House. The day after his expulsion, Steele wrote to Sir Thomas Hanmer, under feelings of strong excitement, the following singular note:—

"*March* 19, 1713-4.

"The vote which passed upon me last night has, as far as common fame can do it, made me a

seditious man. It is some comfort to me that my adversaries were reduced to the lamentable shift of saying that, though what I said were true, I should be an offender in saying it. This is a monstrous position, for hell is the only place which can be destroyed by truth. My reputation, which is dearer to me than my life, is wounded by this vote, and I know no way to heal it, but by appealing to the laws of my country, that they may have their due effect in the protection of innocence. I humbly desire proper questions may be put to bring about resolutions of this kind, to wit, 'That Mr. Steele who is expelled this House for —— may be prosecuted at law for his said offence, and that no *non pros.* or *nolle prosequi* may be admitted in his case. That Mr. Steele is or is not capable of being re-elected into this present parliament.'"[f] To this splenetic effusion the speaker made the following sensible reply:—

"Sir,

"I could not think it proper for me to communicate any letter to the House without knowing what it contained, or from whom it came: and I opened one which was brought to me in that manner last night, and, finding it subscribed by you, I would acknowledge to yourself the having received it, since that is all I can do upon it. The resolutions which you desire that the House would pass can by no means regularly be proposed to them, since all debate upon that subject is closed and at an end, and though the opportunity for it were still subsisting, yet I believe, upon your second thoughts, you will agree in opinion, that when any man's actions or writings are

[f] Sir Henry Bunbury's Life.

under the consideration of such an assembly, it can never come properly from the person himself who is in question, to direct or propose what the judgment shall be, or how far the punishment shall extend. I will not pretend to advise you, but as you insist upon the laws of your country, as the rules by which every subject ought to be guided and tried, I would remind you of another obligation equally strong upon us all, which is to submit to the legal jurisdictions established in our country, for the application and execution of those laws; of those jurisdictions there is none more known, or more necessary, than that before which you have stood; and, since the penalty inflicted is no more than the divesting you of that honour and those privileges which your seat in that place gave you, the sentence was passed, I will not content myself with saying, by the most proper, but by the only judges on earth capable of giving it. In this case there is no appeal, nor is it in the nature or course of justice to allow of any from a superior to an inferior court. I hope you will be persuaded to lay aside all thoughts of any thing that looks like it; at least it cannot pass through my hands, though in any thing consistent with my duty I should be glad to shew myself, &c."

The next day Steele wrote a handsome and manly letter, acknowledging his error, and remarking, "You have added the authority of reason to an implicit reliance on your character in convincing your most humble servant, Richard Steele."

This correspondence was no sooner closed than the speaker had to communicate to the House a letter from some Irish adventurer, of a less honourable character. He stated that the day before he had received

a letter, signed by one John Quin, with a petition inclosed, drawn in a form to be presented to the House, in which letter was contained a scandalous offer of a sum of money to be paid to him upon passing such an act of parliament as was desired in the said petition[g].

The letter being read, John Quin was ordered to be sent for immediately in the custody of the serjeant-at-arms, and was afterwards examined. Next day, the luckless intriguer presented a petition to the House, acknowledging his offence, as committed by him through inadvertency and ignorance, being a stranger, and unacquainted with the method of obtaining acts of parliament, begging pardon of Mr. Speaker and the House for his offence, and praying to be discharged out of custody. It was ordered, that he be brought up on Monday morning next to the bar of the House, where, having upon his knees received a reprimand from the speaker, he was ordered out of custody, paying his fees. The corrupt notions of ignorant individuals linger through many a generation. About a century later, a similar communication was addressed to Mr. Addington by a scheming tinman of Plymouth, who offered the speaker £2000 down for some office in the dock-yard, and was justly requited for his impudence by an ex-officio prosecution, and six months' imprisonment in Newgate[h].

The precarious session of 1714, in which the chances of the Stuart and Hanoverian dynasties hung equally poised, gave Sir Thomas Hanmer an opportunity, which he cheerfully embraced, of bearing witness to his regard for the Protestant succession. Alarmed at the intrigues notoriously going on between

[g] Parliamentary History, vol. vi. [h] Life of Lord Erskine.

Bolingbroke and the Pretender, the country party started a question, that the succession in the house of Hanover was in danger under her majesty's government. Ministers sought to cushion the inconvenient topic by moving the previous question; but the speaker, to the high displeasure of the jacobites, baffled this attempt in a memorable speech, declaring "That he was sorry to see that endeavours were used to waive that question and stop their mouths; but he was of opinion this was the proper, and perhaps the only, time for patriots to speak; that a great deal of pains were taken to screen some persons, and in order to that to make them overlook the dangers that threatened the queen, the nation, and the Protestant succession. That, for his own part, he had all the honour and respect imaginable for her majesty's ministers; but that he owed still more to his country than to any minister. That, in this debate, so much had been said to prove the succession to be in danger, and so little to make out the contrary, that he could not but believe the first."

This speech, we are assured, told with great effect on the independent members, who, after a long and warm debate, swelled the minority to 208 against 256. Swift, in his sarcastic answer to some humorous lines of Lord Oxford's, shows how unacceptable the speaker's interference had been to the premier and his friends:—

"A pox, too, on Hanmer,
Who prates like his gran'mere,
And all his old friends would rebuke:
In spite of the Carle,
Give us but our Earl (Oxford),
The devil may take their Duke (Marlborough)."

Sir Thomas Hanmer, indeed, with the majority of

the country gentlemen, was too firm a friend to the Church of England to acquiesce in a Papist on the throne, yet too much attached to the principles of hereditary monarchy to take satisfaction in the change of dynasty, especially when slights and insults were gratuitously bestowed. The first disgust of the ex-speaker with George I. is traced to a singular origin. One Hill, a *ci-devant* diplomatist, paymaster of the forces, &c., was candidate for the bishopric of Ely, which fell vacant at the time of Queen Anne's death. He had worn the habit and led the life of a layman for thirty years; yet his pretensions were actively supported, though fortunately in vain, by Sir Thomas Hanmer, Bothmar, and, worst of all, "pudet hæc opprobria fari," by the Archbishop of York. The failure of this impudent suit is said to have increased Hanmer's estrangement from the court[1]. But, independently of this abortive job, he had better reasons for displeasure. From the moment of the king's landing at Greenwich, the Whimsicals, or Hanoverian tories, had been as completely denied a glimpse of favour, as if they had vowed allegiance to the court of James. On the low church party alone, whom they detested, were scattered the rays of the sovereign's bounty; upon the whigs exclusively fell the soft dews of patronage.

An amusing survey of the change is afforded in the following good-humoured letter of Prior to Sir Thomas, dated from the embassy at Paris, January 3rd (new style), 1714-5:—

"The vicissitudes of three months in your enchanted island are sufficient to render all reflection upon them ridiculous. Take in the two preceding

[1] Life by Sir H. Bunbury.

months, and judge if I know more of London than of Mexico, when I compare your letter (it bore date Sept.) with the present state of things, what shall I say to anybody that inquires about England? and how shall I answer in relation to the public, otherwise than that all my friends are put out of their employments? As to myself, what signifies it to complain; after thirty months spent here in a great deal of business, which I sustained as well as I could, and a great deal of pomp, which I hated as much as any man could, in a perpetual uncertainty and a various change of orders and masters: having had assurances from the king himself, that he was satisfied with my service, in one word, after having upon this great conjuncture of his majesty coming to the crown, given all advice to the lords regents, and transacted all in this court that lay incumbent upon an honest man and a British minister, I find myself divested of my commission at the customs, my expenses here objected to at the treasury, and my person neither in very good health nor good heart, detained a kind of political prisoner, my affairs descanted on and judged by every French marquis, or councillier, duchesse, or bourgeoise, according to the measure of their capacity and the extent of their compassion. Instead of furnishing the closet, I take it for granted I must sell the house, in all cases Cambridge is not very far from Mildenhall.

"P.S.—Cloe's place being "quamdiu se bene gesserit," the gypsey behaves herself so obstinately well that I am afraid she will hold it for life."

The poor ambassador-poet seems to have been so bewildered by his misfortunes as to have fancied in his P.S. that he was writing to Bolingbroke, instead of

the grave and correct baronet. Disappointed and indignant, Hanmer maintained a moody silence during the two years that followed the accession, and was only encouraged by the flattering overtures of the Prince of Wales, in 1717, to resume a forward part in the House of Commons.

The open rupture between George I. and his son took place in the November of that year, just when parliament was re-assembling; and a few days afterwards, a supply being moved for the maintenance of the army, Sir Thomas Hanmer led the opposition, and, by the aid of Walpole, then exasperated against the ministry of Stanhope and Sunderland, divided 158 against 172. But the hope of office was soon overclouded. The royal quarrels were adjusted. Walpole again stormed the cabinet, and maintained his place unshaken, even after the death of George I. With this event perished the last forlorn chance of the restoration of his friends to the cabinet; and Sir Thomas Hanmer, declining the flattering requisition of his constituents in Suffolk, withdrew from public life. His prospect of rural felicity was not enhanced by his second marriage with the daughter of a wealthy country gentleman, Thomas Folkes, Esq., of Suffolk. There was a great disparity in years between the young lady and her cold, though courteous, bridegroom; and the result of a union, prompted by vanity on the one hand, and self-interest on the other, proved, as might have been anticipated, most unhappy. At the end of a few years, the young wife eloped with her husband's cousin, the Honourable Thomas Hervey, a man full of talents, but giddy and wild. A lover of literature, though a rake, and the friend of Dr. Johnson, he published a strange little book entitled "Letters to

Sir Thomas Hanmer," and fell at last into complete insanity. From a flaw in the marriage settlement, Sir Thomas retained possession of a good portion of the estates to which his wife was heiress, and transmitted them, on his death, to his own relations, thus solacing his lonely state "with the gentlemanly old vice" of avarice.

He found worthier recreations for declining age at his seat at Mildenhall, in gardening and literature. His garden was celebrated for the goodness of its grapes. Hampers, filled with this delicious fruit, used to be sent every year, carried on men's shoulders to London, nearly seventy miles distant, as the gallant baronet's offering to Queen Caroline.[k] It affords to the horticulturist a curious proof of the scarcity of good grapes in England little more than a century ago. "My notion of gardening," writes the worthy baronet to Pope, with characteristic pomp, is, "that it is only sweeping nature." From some of the letters addressed to this sententious writer, it may be presumed that Sir Thomas had the reputation of understanding, or the ambition of being thought to understand, the higher subjects of science. Among his correspondence was found this extraordinary epistle from the celebrated and half-crazed William Whiston, "November 24, 1718. If we make and use such a map for the inclination of the dipping needle as Dr. Halley has made for the variation of the horizontal needle, we obtain the longitude. Will. Whiston. You will please to note the day when you receive this letter." It was indorsed accordingly with all possible gravity, "Received November 25th, 1718." Nothing came of this strange effusion, dictated by an eccentricity that verged

[k] Life by Sir H. Bunbury.

on madness, eight years after its erratic author had been deprived of his professorship, when he was earning a scanty and precarious subsistence by teaching mathematics.

A nostrum equally valueless was addressed, in 1744, to the literary baronet by Dr. Berkeley, the good Bishop of Cloyne: "How ill soever a physician's air may become one of my profession, certainly, if I may conclude from parallel cases, there is room to entertain good hopes of yourself, both giddiness and relaxed fibres having been to my knowledge much relieved by tar-water." The complaint the bishop's patient was labouring under, no healing virtue in water could cure;—a gradual decay.

The following extract from a tedious letter to the ex-speaker, by his kinsman, Roger North,—a better gossip than philosopher,—is curious to show what were the enlarged opinions of a fellow of the Royal Society in 1718. It is evident that he disliked the then novel doctrines of Newton in science almost as heartily as the heresies of the whigs in politics. The burden of his epistle was to oppose two propositions of Sir Thomas's, and to show that neither could be true. 1. That smoke naturally riseth; 2. That fire, by rarefaction, draws a current of air. "The fact is against you, for it cannot be showed that smoke, in any instance, moves otherwise, up, down, or laterally, but as the air carries it, and to that it is always obsequious. It were well if smoke naturally rose, for many a smoky chimney would mend upon it. It must be condensation, and not rarefaction, that draws air. To ease your enquiry, what is the cause of the furious currents of air, where fires are artificially

disposed for it, I answer in a word,—the immense quantity of effluvia from them!" This learned Theban calls the doctrine of attraction "much pretended of late, chimerical, and trifling; as, if I should say the smoke is attracted by the soot in the chimney, the jest would not be digested. However, the system of the planets is no better accounted for!"

With his former fellow-labourer in political literature, Swift, Sir Thomas Hanmer appears in later life to have maintained a very slight intercourse. Their sole bond of friendship was thinly woven of politics, and snapt at once, when the speaker broke off from the Oxford ministry, under a real or affected dread for the safety of the Protestant succession. In the Swift correspondence there occurs but one formal letter, in reply to a solicitation from the dean respecting the prosecution of Waters, addressed "Sir," and suggesting with characteristic prudence, "Oct. 1720. If the thing is done, it will be best that the means should be a secret by which it is brought about; and for this reason you will excuse me if I avoid putting my name to the outside of my letter, lest it should excite the curiosity of the post-office."

It was only two years before his death, in 1744, that the wary baronet ventured to encounter the sarcasm of hostile wits, and fairly committed himself to print in a splendid edition of Shakspeare, published at the Oxford University press. In a well-written but somewhat pompous preface, he accounts for the spirit of condescending scrutiny with which "One of the great admirers of this incomparable author hath made it the amusement of his leisure hours, for many years past, to look over his writings with a critical eye, to note

the obscurities and absurdities introduced into the text, and, according to the best of his judgment, to restore the genuine sense and purity of it.

"Since other nations have taken care to dignify the works of their most celebrated poets with the fairest impressions, beautified with the ornaments of sculpture, well may our Shakspeare be thought to deserve no less consideration; and, as a fresh acknowledgment hath lately been paid to his merit, and a high regard to his name and memory, by erecting his statue at the public expense, so it is desired that this new edition of his works, which hath cost some attention and care, may be looked upon as another small monument, designed and dedicated to his honour."

The statue thus pompously set up, with the baronet's own name graven on the pedestal, formed a tempting target for the shafts of satirical wit. Horace Walpole, in one of his gossiping letters[l], tells Sir Horace Mann of a singular emendation, which Sir Thomas Hanmer had made in the text of "Othello." For the passage in which Cassio complains of "being damned in a fair wife," reading—"d——d in a fair 'phiz.'" The writer was hoaxing his correspondent, but has caught, in his unpoetical fiction, the prevailing humour of the day. Pope, with a jealous fear for his own edition of Shakspeare, has niched the rival editor into his "Dunciad." In the procession to do homage to the Goddess of Dulness, he introduces Hanmer under the name of "Montalto," together with his humbler assistant, the plodding Theobald[m]:—

"There moved Montalto with superior air,
His stretched out arm displayed a volume fair;

[l] Walpole's Letters to Sir Horace Mann.
[m] Pope's Dunciad, part iv.

Courtiers and patriots in two ranks divide,
Through both he passed, and bowed from side to side;
But, as in graceful act, with awful eye,
Composed he stood, bold Benson thrust him by;
The decent knight retired, with sober rage,
Withdrew his hand, and closed the pompous page."

According to the traditional reports of the village, this portrait of the stately "Montalto" bore a faithful resemblance to the baronet's procession on the Sunday to and from the parish church, as he paced at the head of his servants through bowing ranks of tenantry, who stood, hat in hand, while the great man went by. On a difference of opinion with Warburton, as to some point of conjectural criticism, that irritable churchman demanded back his letters, which abounded in valuable criticisms on the text of Shakspeare, and recovered them, not without difficulty, as the baronet asserted his right to retain all the documents for which he had paid postage! To this unhappy strife about the doctrine of lien may be ascribed much of the acrimony of Warburton's strictures; and his depreciating spirit seems to have infected Dr. Johnson, who was at that time publishing observations on the tragedy of "Macbeth." "I found," said the doctor, with malicious archness, "that the editor's apprehension is of a cast so different from mine, that he appears to find no difficulty in most of those passages which I have represented as unintelligible, and has, therefore, passed smoothly over them, without any attempt to alter or explain them." His further notice was in the same tone of lofty contempt. "Most of the other emendations which he has endeavoured, whether with good or bad fortune, are too trivial to deserve mention; for, surely, the weapons of criticism ought to be blunted against an editor who can imagine

that he is restoring poetry, while he is amusing himself with alterations like these:—for

" —— This is the sergeant,
" Who like a good and hardy soldier fought;

" —— This is the sergeant, who
" Like a right good and hardy soldier fought;

For

" —— Dismay'd not this
" Our captains Macbeth and Banquo? yes;

" —— Dismay'd not this
" Our captains brave Macbeth and Banquo? yes;

such harmless industry may surely be forgiven, if it cannot be praised; may he therefore never want a monosyllable, who can use it with such wonderful dexterity,

' Rumpatur, quisquis rumpitur, invidia!'

The rest of this edition I have not read, but, from the little I have seen, think it not dangerous to declare, that in my opinion its pomp recommends it more than its accuracy. There is no distinction made between the ancient reading and the innovations of the editor; there is no reason given for any of the alterations which are made; the emendations of former critics are adopted without any acknowledgment, and few of the difficulties are removed which have hitherto embarrassed the readers of Shakspeare.

" I would not, however, be thought to insult the editor, nor to censure him with too much petulance for having failed in little things, of whom I have been told that he excels in greater; but I may, without indecency, observe that no man should attempt to teach others what he has never learned himself; and that those who, like Themistocles, have studied the arts of policy, and can teach a small state how to grow

great, should like him disdain to labour in trifles, and consider petty accomplishments as below their ambition."

Eleven years later, in 1756, when Dr. Johnson published his own edition of Shakspeare, the great censor would seem to have felt some compunctious visitings, and to have made an *amende honorable* to the memory of the Oxford tory.

"Our author fell then into the hands of Sir Thomas Hanmer, the Oxford editor, a man in my opinion eminently qualified by nature for such studies. He had, what is the first requisite to emendatory criticism, that intuition by which the poet's intention is immediately discovered, and that dexterity of intellect which despatches its work by the easiest means. He had, undoubtedly, read much; his acquaintance with customs, opinions, and traditions, seems to have been large, and he is often learned without show. He seldom passes what he does not understand, without an attempt to find, or to make, a meaning, and sometimes hastily makes what a little more attention would have found. He is solicitous to reduce to grammar what he could not be sure that his author intended to be grammatical. Shakspeare regarded more the series of ideas than of words, and his language, not being designed for the reader's desk, was all that he desired it to be, if it conveyed his meaning to the audience.

"Hanmer's care of the metre has been too violently censured. He found the measure reformed in so many passages by the silent labours of some editors, with the silent acquiescence of the rest, that he thought himself allowed to extend a little further the license, which had already been carried so far, without reprehension; and of his corrections in general it must be

confessed, that they are often just, and made commonly with the least possible violation of the text.

"But, by inserting his emendations, whether invented or borrowed, into the page, without any notice of varying copies, he has appropriated the labour of his predecessors, and made his own edition of little authority. His confidence, indeed, both in himself and others was too great; he supposes all to be right that was done by Pope and Theobald; he seems not to suspect a critic of fallibility; and it was but reasonable that he should claim what he so liberally granted. As he never writes without careful inquiry and diligent consideration, I have preserved all his notes, and believe that every reader will wish for more."

The history of the quarrels into which the proposals for publishing this splendid edition of Shakspeare involved Hanmer with Warburton,* who had entertained a similar design, but who appears to have made but little progress towards the execution of such a work, is too curious not to deserve a more particular mention[n]. "The angry critic found his labours anticipated, and he charged Sir Thomas, in the coarsest manner, with having pilfered and made use of his notes. Both the assertion and the violence served to attach a good deal of temporary interest to this controversy, which is, even now, not unamusing. The literary baronet addressed the following letter on the subject to Dr. Smith, Provost of Queen's College, Oxford[o]:—

"*Mildenhall, near Newmarket, Suffolk,*

"Dear Sir, *October 28th*, 1742.

"There seems to arise some difficulties with

[n] D'Israeli's Quarrels of Authors.

[o] Biographia Britannica, Art. Hanmer.

respect to the design of printing a new edition of Shakspeare, and I beg it may be laid aside, if you are not fully satisfied that some advantage may arise from it to the university, for I have no end in view to myself to make me desire it. I am satisfied there is no edition coming, or likely to come, from Warburton, but is a report raised to support some little purpose or other, of which I see there are many on foot. I have reason to know that Warburton is very angry for a cause, of which I have no reason to be ashamed or he to be proud. My acquaintance with him began upon an application from himself, and at his request, the present Bishop of Salisbury introduced him to me for this purpose only, as was then declared, that, as he had many observations upon Shakspeare then lying by him, over and above those printed in Theobald's book, he much desired to communicate them to me, that I might judge whether any of them were worthy to be added to those emendations, which he understood I had long been making upon that author.

" I received his offer with all the civility I could, upon which a long correspondence began by letters, in which he explained his sense upon many passages, which sometimes I thought just, but mostly wild and out of the way. Afterwards, he made a journey hither on purpose to see my books; he staid about a week with me, and had the inspection of them, and, all this while I had no suspicion of any other design in all the pains he took but to perfect a correct text in Shakspeare, of which he seemed very fond. But not long afterwards the views of interest began to shew themselves, several hints were dropped of the advantage he might receive from publishing the work thus corrected; but as I had no thought at all of making it public, so

I was more averse to yield it in such a manner as was likely to produce a paltry edition, by making it the means only of getting a greater sum of money by it. Upon this he flew into a great rage, and there is an end of the story, with which I have thought it best to make you acquainted, that, as you mention the working of his friends, you may judge the better of what you see and hear from them, and may make what use you please of the truth of facts which I have now laid before you.

"As to my own particular, I have no aim to pursue in this affair: I propose neither honour, reward, or thanks, and should be very well pleased to have the books continue upon the shelf in my own private closet. If it is thought they may be of use or pleasure to the public, I am willing to part with them out of my hands, and to add, for the honour of Shakspeare, some decorations and embellishments, at my own expense. It will be an unexpected pleasure to me, if they can be made in any degree profitable to the university, to which I shall always retain a gratitude, a regard, and a reverence; but, that I may end as I began, I beg the favour of you, if, upon more mature consideration among yourselves, you see reason to discourage you from proceeding in this affair, that you will give it over, and not look upon yourselves to be the more obliged to prosecute it, from any steps already taken with, "Sir,

"Your most humble and obedient servant,

"THOMAS HANMER."

The bishop's strictures on this charge, which was to have been printed in the "Biographia Britannica," if the sheet had not been cancelled, do not exhibit much episcopal meekness.

"Sir Thomas Hanmer's letter from Mildenhall to Oxford is one continued falsehood from beginning to end! It is false that my acquaintance began upon an application from me to him. It began on an application of the present Bishop of London to me, in behalf of Sir Thomas Hanmer, and, as I understood it, at Sir Thomas Hanmer's desire. The thing speaks for itself. It was publicly known that I had written notes on Shakspeare, because part of them were printed; few people knew that Sir Thomas had; I certainly did not know; nor, indeed, whether he was living or dead. The falsehood is still viler, because it skulks only under an insinuation, that I made a journey to him to Mildenhall without invitation, whereas it was his earnest and repeated request, as appears by his letters, which I have still by me. It is false that the views of interest began to show themselves in me to this disinterested gentleman. My resentment at Sir Thomas Hanmer's behaviour began on the following occasion.

"A bookseller in London, of the best reputation, had wrote me word that Sir Thomas Hanmer had been with him, to propose his printing an edition of Shakspeare, on the following conditions: — Of its being pompously printed with cuts (as it afterwards was at Oxford), at the expense of the said bookseller, who, besides, should pay one hundred guineas, or some such sum, to a friend of his (Sir Thomas's), who had transcribed the glossary for him. But the bookseller, understanding that he had made use of many of my notes, and that I knew nothing of the project, thought fit to send me this account. On which I wrote to Sir Thomas, upbraiding him with his behaviour, and demanding out of his hands all the letters I had written to him on the subject, which

he unwillingly complied with, after cavilling about the right of property in those letters, for which he had (he said) paid the postage! When the bookseller would not deal with him upon those terms, he applied to the University of Oxford, and was at the expense of his purse in procuring cuts for his edition, and at the expense of his reputation in employing a number of my emendations on the text without my knowledge or consent; and this behaviour was what occasioned Mr. Pope's perpetuating the memory of the Oxford edition of Shakspeare in the Dunciad.

"W. WARBURTON.

"*Gloucester, Jan. 29th,* 1761."

"The reader," Sir Henry Bunbury well remarks, "will observe that this coarse and furious answer did not issue from the pen of the polemical bishop till fifteen years after the death of Hanmer, when no reply could be made, no documents could be produced, to establish the good faith of the deceased baronet. But looking back at the end of ninety years to the evidence which remains, I feel myself convinced that Warburton's posthumous charges were false and calumnious."

In his latter days, Sir Thomas Hanmer was much esteemed and highly respected, and he would have gone to his grave happy, as well as honoured, if it had not been for the error before alluded to, in forming his second marriage. He and his young wife had been ill suited to each other—"joined, not matched," and his annoyances were not ended by her elopement and death. The book published by Mr. Hervey (which tended to cast a good deal of painful ridicule on the old baronet), and the litigated claims of Lady Hanmer's child, embittered the last years of his life.

The correspondence with Warburton was not his sole epistolary vexation. The honourable Mr. Hervey, having procured from his runaway wife all the right she could give him to an estate at Barton, wrote the following extraordinary letter to Sir Thomas after her death, on learning that he was about to sell the timber on the estate:—

"Sir,—Having had an intimation at your door, that it would be of little use to me to multiply my visits, I thought it necessary to give you this trouble. As to your pretended quarrel to me, on my behaviour to your wife, I am proud of having done nothing towards you, but what any man of the strictest honour might have done; nothing towards her, but what any generous and well-natured man ought to have done; and you know, as she had sense and spirit enough at last to assert her freedom, you ought to thank heaven that she happened to throw herself into the arms of a son of Lord Bristol! I waited on you, sir, to ask a piece of justice of you, not a favour; for of all mankind you are the last person to whom I would be obliged. I am informed that you have sent orders into Wales to cut down all the timber upon the estate of which I have the reversion, the execution whereof I hoped to respite, by remonstrating to you, that it would have been a little more becoming you as a gentleman to have offered me the refusal of it. Nevertheless, I am still desirous to purchase the wood," &c.

To this peculiarly cool billet from the seducer of his wife, Sir Thomas wrote the following formal reply:—

"Sir,—I little thought I should have been laid under the necessity of denying you admittance to my house,

and of declining any correspondence with you, because I imagined it impossible that you should ever seek either. To hear that called a demand of justice, which you now make the subject of your letter, is another surprise to me, for, I think I have the common right of all mankind to dispose as I please of my own, which right I shall exercise without asking any person's consent, and therefore my answer must be, that I am inclined to deal with others for the wood I have to sell rather than with you.

"I am, your humble servant,

"THOMAS HANMER."

"*December* 12*th*, 1741."

"I do not wonder," rejoined the impudent libertine, "at your asserting your natural rights with so much warmth, it seems you have so few to spare."

To compensate for such abuse, the literary baronet was fed with "soft dedication" all day long, and propitiated by such flattery as the following lines in Broome's epistle to Fenton—

> "Unhallow'd feet o'er awful Tully tread,
> And Hyde and Plato join the vulgar dead;
> And all the glorious aims that can employ
> The soul of mortals must with Hanmer die!"

Sir Thomas Hanmer died May 7, 1746, in his 69th year, and was interred with his ancestors in the church of Hanmer, in Flintshire. His epitaph, by Dr. Friend, master of Westminster school, was composed in the lifetime of Sir Thomas, and found in his edition of Shakspeare after his death. The executors inferred from this that it had received his approbation, and accordingly put it on his monument.

" Paulatim se à publicis consiliis in otium recipiens
Inter literarum amœnitates,
Inter ante-actæ vitæ haud insuaves recordationes,
Inter amicorum convictus et amplexus
Honorifice consenuit."

No dates are given — he is called with truth " orator gravis et pressus ! "

This superb classical inscription was paraphrased in the " Gentleman's Magazine " for May, 1747, by Dr. Johnson, in the following, among other, sonorous lines:

" In life's first bloom his public toils began
At once commenc'd the senator and man :
In business dext'rous, weighty in debate,
Thrice ten long years he labour'd for the state ;
In every speech persuasive wisdom flow'd,
In every act refulgent virtue glow'd ;
Suspended faction ceased from rage and strife,
To hear his eloquence and praise his life :
Resistless merit fix'd the senate's choice,
Who hail'd him speaker with united voice ;
Illustrious age ! how bright thy glories shone,
When Hanmer fill'd the chair and Anne the throne."

With Spencer Compton commenced the permanent character of the speaker. Elected unanimously on the accession of George I., he was continued during his entire reign ; the weakness of opposition forbidding all hope of obtaining a more favourable president. His rank has been exalted and efficiency promoted by this permanency. With one exception, made under peculiar circumstances (that of Sir Fletcher Norton) there has been no attempt before the Reform Bill to expel even an obnoxious speaker, or anticipate the vacancy which a voluntary resignation might occasion. Mr. Compton was the third son of James, third Earl of Northampton, and born in 1676.[p] Returned to

[p] Memoirs of the Kit Cat Club.

Parliament for Eye, when travelling on the continent, in his twenty-second year, he made an early display of worldly wisdom by deserting the principles of his family, which had been for generations tory. He was rewarded by the whigs, in 1705, with the post of chairman of the committee of privileges and elections, and, as a proof of addiction to their politics, was appointed one of the managers of Sacheverell's impeachment. In a letter to Walpole, so early as 1704, he shows himself closely identified with the secret counsels of the party: "Not having heard from you since I writ last, I was in hopes to see you in town by this time (October 12th); if a letter would not be too great a trouble, I should be glad to know whether you design to be in town at the opening of the session. It is now reported afresh that Harley will quit the chair, that the court will set up the solicitor Harcourt, but that the other tories will try for Mr. Bromley. I do not know whether you will think this contest worth your attendance, but sure some good may be struck out of this division. I hope, therefore, you will not disappoint your friends, who all desire your coming, but none with more earnestness and sincerity than yours,

"Sp. Compton."

The active whig partizan, with whom he corresponded on such terms of political friendship, was soon afterwards a rival for the favour of the crown. Mainwaring writes in January, 1710,[q] "Mr. Horace Walpole came to us this morning, and says it was an unfortunate thing for his brother that he was out of town, for he had found out that Mr. Smith, who, it was generally thought, would have succeeded Sir Thomas Littleton, would not accept the place of treasurer of the

[q] Coxe's Walpole.

navy, and he had reason to believe his brother would be very glad of it, and since the person now most talked of for it was Mr. Compton, he thought there would be no competition between two people, whose merits and late behaviour have been so different, if his brother's inclinations were known." Agreeably to this prediction, Walpole was chosen to the vacancy. It seemed his fate through life to baffle and outstrip the less able competitor, but, as in the race of the hare and tortoise, to be outstripped at the goal. On the accession, Walpole's hopes embraced higher objects of ambition than the speakership, for which indeed his recent expulsion from the House for venality formed no fitting introduction. This formidable antagonist removed, Mr. Compton with unanimous assent was forcibly inducted into the chair. His address of apology, on being presented to the king, he framed according to the old-fashioned receipt of absurd self-depreciation which the good sense of the age had not yet made obsolete, "I have neither memory to retain, judgment to collect, nor skill to guide their debates."[r]

On announcing his majesty's approval of the Commons' choice, the modest speaker turned a compliment with better grace, "that his majesty had thus given proof that he would never deny anything that can be asked of him by his faithful Commons, because it will be impossible for them ever to make a request that could be more reasonably refused." His speech on presenting the money bills deserved the compliment paid to it for its rhetorical skill, of being registered on the journals. It expressed "the Commons' abhorrence of a popish Pretender, concerning whom nothing remains unsuspected, but his bigotry to superstition

[r] Journals, vol. xvi.

and his hatred to our holy religion." On occasions of pomp and ceremony, the speaker appears to have rounded his periods with facility and grace. When appointed to return the thanks of the House to the managers of the impeachment against the Earl of Macclesfield for the faithful discharge of their trust, the speaker enlarged upon their merits with a richness of rhetoric that verged on eloquence. "Gentlemen, you have maintained the charge of the Commons with that force of argument, beauty of expression, and strength of reason, as would have gained you the highest applause in the most flourishing of the Grecian republics, and I may add — But I shall not enlarge further on this part of your praise, being sensible that I am not able to express myself in a manner suitable to the dignity of the subject; your own tongues are only equal to such an undertaking, and, were I able to do it, your modesty would not permit it. You have stopped the cries of orphans, and dried up the tears of the widow, even those who must ever be insensible of the benefits they receive, idiots, and lunatics, (and such only can be insensible of them) will be partakers of the fruits of your labours."[s]

The whole address was framed in the same eloquent spirit, and deserves the place in the journals, in which an applausive audience voted its insertion, far more than the set orations of his predecessors. Of another part of his functions,— the duty to maintain order,—the speaker formed (one should imagine, from an anecdote communicated by his successor Onslow) but an inadequate notion.[t] "It is reported of Sir Spencer Compton that he used to answer a member, who called upon him to make the House quiet, for

[s] Parliamentary History, vol. viii. [t] Hatsell, Art. Speaker.

that he had a right to be heard; 'No, Sir! you have a right to speak, but the House have a right to judge whether they will hear you.'" "In this," continues Mr. Onslow, "the speaker certainly erred: the member has a right to speak, and the House ought to attend to him; and it is the speaker's duty to endeavour for that purpose to keep them correct; but, where the love of talking gets the better of modesty and good sense, and which sometimes happens, it is a duty very difficult to execute in a large and popular assembly, and indeed the House are very seldom inattentive to a member who says any thing worth their hearing."

To the maintenance of decorum, the speaker's formal and solemn manner, set off with a majestic presence and sonorous voice, largely contributed; whilst they seemed to denote greater extent of knowledge and more profundity of wisdom than he could in reality claim.[u] These useful attributes, to which might be added a strict application to business, a rigid observance of state ceremonial, and a punctuality to the minute of time in appointments, rendered the fortunate whig an especial favourite both with the king and Prince of Wales,[w] who classed such useful qualities among the cardinal virtues. In 1721, the speaker contrived to combine the lucrative offices of treasurer of Chelsea Hospital and paymaster of the navy — a union of salaries which might have drawn down on his head the odium of partiality and dependence on ministers, had the contending parties been equally balanced; but the preponderance of the whigs

[u] Fox's joke on Thurlow might be applied to the speaker, — "that he must have been an impostor, for that no one ever was so wise as he looked."

[w] Coxe's Walpole.

was too decided to call forth the imputation of favouritism. Following this questionable precedent, Mr. Onslow for some time united the incompatible situation of treasurer of the navy with that of speaker, but at length resigned his appointment under the crown, that he might not appear obnoxious to court favour.[x]

Next to Lord Scarborough, none stood higher in the estimation of the prince than Sir Spencer Compton, though his influence and counsels were exerted in vain to dissuade his avaricious patron from allowing his name to be cried in the streets during the South Sea mania, as governor of the copper company.[y] The bait of the £40,000, that he gained, by the sanction of his name, from the luckless subscribers, was stronger than all Compton's dissuasives, which may possibly not have been urged beyond the courtly point of objection.[z]

The king's death opened a prospect of high preferment to the prudent favourite. When the sudden news of this event was announced to the Prince of Wales, on awakening from his afternoon slumber, by the subtle and submissive Sir Robert Walpole, kneeling down and kissing his hand, he answered abruptly to the question—"whom his majesty would be pleased to appoint to draw up the declaration to the privy council,"—"Compton!" As this was the act of the prime minister, Walpole, we are told[a], quitted the apartment with a mortifying certainty of instant dis-

[x] Hatsell. [y] Coxe's Walpole.

[z] In one of Swift's letters at this period, he writes with dry humour, "I make blunders now; in writing speaker, I put an n for a p (sneaker)."

[a] Coxe's Walpole.

missal. On acquainting Compton with the king's commands, he found that minister totally unprepared with the forms of etiquette and methods of expression used on these occasions. The certainty of such elevation must have presented itself to the speaker in many former musings; and yet, with singular improvidence, he would seem to have neglected mastering the first elements of his duty. But similar slothful negligence,—the "crassa negligentia" of lawyers,—is not infrequent with statesmen of that age.

Though George I. could not converse in English, and spoke wretched Latin, not one of his ministers, with the exception of Lord Carteret, thought of learning, from interest, the royal language which so many now voluntarily undertake for pleasure[b].

The speaker was accordingly compelled to submit to the humiliation of soliciting the minister to prepare the declaration to the privy council. Walpole at once complied, and carried the document to the king, but could not resist letting the queen into the secret of his rival's incompetency. Queen Caroline entertained the highest possible opinion of Walpole's abilities as a financier. In her conversations with the late king on politics at the Chapel Royal (for this was the manner in which "the most religious king" performed his devotions), in answer to her remark, that a want of funds would compel him to disband his Hanoverian troops, George I. had replied,—"Oh no! Walpole can turn stones into gold!" The lively impression thus created in his favour, was strengthened by the offers which he made, of carrying through the House an augmentation of £130,000 to the civil list, and of obtaining from parliament a jointure for the queen of

[b] Lord J. Russell's History of Europe.

£100,000 a-year, Compton only venturing to promise £60,000. Her influence over the royal mind, always great, and now strenuously exerted, at length wrung a promise from her consort, that, if the change could be effected without any forfeiture of his word, Sir Robert Walpole should not be cashiered.

The weakness and fears of the expectant premier were played upon with equal cleverness and despatch. The queen, in Walpole's presence, repeated to Compton the intimation of the king's pleasure that he should be placed at the head of the treasury, and Sir Robert expressed his cheerful acquiescence in the arrangement, not affecting to conceal the arduous nature of the duty he was undertaking. The speaker yielding to a sudden panic, and conscious of his rival's superiority, shed tears, as he declared, with deep gratitude for his master's kindness, his incapacity to preside over the government. While this drama was thus admirably acted in the closet, the door of his house in St. James's-square was besieged by persons of all ranks, who crowded to pay their court to the new minister.[c] As Walpole returned in triumph from the court to his house on the other side of the square, he observed laughingly to a friend who sat in the carriage with him, "Did you notice how my house is deserted, and how that door is surrounded with carriages? To-morrow the scene will be changed, his door-way will be vacant and mine will be more frequented than ever." It would have been superfluous for the historian to state that his prophecy was fulfilled.[d] To

[c] Coxe's Walpole.

[d] In the Suffolk Correspondence is a letter from Swift to Patty Blount. "How will you pass this summer for want of a squire to Ham Common or Walpole Lodge? for as to Richmond Lodge or Marble Hill, they are abandoned as much as Sir Spencer Compton!"

console the ex-speaker for the absence of the venal train, he was raised to the peerage by three steps of promotion at a time, made Earl of Wilmington, and a Knight of the Garter, on the restoration of that noble order. But no patent or ribbon could reconcile the discarded statesman to the disappointment of his ambition; and, brooding over the mortification into which he fancied himself cajoled by over-sensitiveness, he caballed to overthrow the premier.

"He entered," writes Horace Walpole, "into a secret league with Mr. Pulteney, which Sir Robert discovered by the means of Pulteney's gentleman, who betrayed to him the letter he was carrying from his master to Lord Wilmington.[e] As this was soon after a treaty between them, Lord Wilmington was much shocked, when the premier reproached him with it, and continued so steady for the future, that, when the famous motion was made against that minister, he went to the House of Lords with a blister on his head, after having been confined to his bed for some days with a fever! His fidelity had been confirmed by the post of president of the council, but was still of an unstable character. How little reliance could be placed on the faith of his attachment by the trading politicians of the day is amusingly shewn in the following letter of Bubb Doddington, as characteristic of that hoary apostle of corruption, as the most exact likeness could have been.[f] "Remember, my very good lord, how dear your over-caution fourteen years ago cost your country, and then let me, with the utmost humility, with the most unfeigned duty and respect, with the most sincere and unaffected desire of pardon

[e] Lord Orford's Reminiscences.

[f] Coxe's Walpole—Doddington's Diary.

for this great liberty, and with assurances to induce you to grant it, that I will never again presume so far, let me humbly and earnestly, for God's sake, for the sake of your own glory, for the love of your king and your country, which I know is sincere and ardent in you, let me intreat your lordship to go to the king without loss of time, and say to him what your own honour and excellent understanding shall suggest to you upon the present occasion. You, and you only, have all the talents and all the requisites that this critical time demands, to effectuate this great event, and save your country if it be to be saved."

Place and pension were all the objects contemplated in this impassioned appeal! The noble earl was not addicted to laughter, or he might have chuckled over this fawning sycophantic effusion, for, at the very time of reading it, he had accepted the place of first lord of the treasury, and knew that Doddington was not to be included in the new arrangements. The imbecility of the premier, who accepted a post in his dotage, for which he had owned himself disqualified in his prime, was keenly ridiculed by the satirical wit, Sir Charles Hanbury Williams, who compared the new cabinet to a blind beggar, never stirring without his cur.

"Well skilled each different way in finding,
Who knows all crossings, every winding,
By him through all the town is led,
And safely guided home to bed;
So fares it with our treasury board,
Where dark and blind sits every lord,
From that grave thing that wears a ribbon,
Quite down to that grave nothing, Gibbon." [8]

The satirist applies the lash still more vigorously in

[8] Sir C. H. Williams's Works.

"A New Ode to a great number of great men newly made":—

> "See yon old dull important lord
> Who at the long'd for money-board
> Sits first, but does not lead;
> His younger brethren all things make,
> So that the Treasury's like a snake.
> And the tail moves the head."

The prose of Williams was more envenomed than his verse. In a letter to Mr. Dodsley, January, 1742-3, he thus drolls on the superannuated peer—

"Sir,

"Though, for the generality, the books you usher into the world come forth as correct as possible, yet, in your edition of Dr. Young's poem, called the 'Complaint,' or 'Night Thoughts,' part 2, there is one erratum so gross and apparent, that I am surprised it could escape you,—

> 'A Wilmington goes slower than the sun
> And all mankind mistake their time of day.'

Now suppose you should, to use your own phrase, '*dele* the sun, and *lege* a snail,' and in the last line substitute 'but' for 'and,' the verses will run thus,—

> 'A Wilmington goes slower than a snail,
> But all mankind'

(i. e. all mankind, as well as his lordship)

> 'mistake the time of day.'

Which is a genteel excuse for a superannuated person accepting such an appointment as his lordship is now in. But to return to the most material error, which is that of the word 'sun.' Do you believe, Mr. Dodsley, that Dr. Young really thinks it necessary to keep up a character of orthodoxy among his brethren, by pretending to believe literally the old story of Joshua?

Does he not yet know, from the concurrent assent of all astronomers, that the sun never stirs out of his place, and how can Lord Wilmington go slower than that which never moves? I really believe he could, if any man in England could; but, having so lately made himself first minister, it would be hard to put his lordship so soon upon attaining any more impossibilities. Another reason why I think this sun must have been a mistake, is, that no man could think of his lordship and the sun in the same line. The sun shines, fixed and immoveable, in his own proper sphere. Is his lordship in his sphere? Is his lordship immoveable? Is his lordship bright? Does he shine? Does he dazzle? Does he enlighten? Does he warm? or can he create? When he retires for some short time from mortal eyes to Chiswick, do men wish to see his face again? Do they wait impatiently his coming out? Don't they rather think it time he should go out? How could his lordship put any body in mind of the sun! There is another remarkable instance in which he differs. The sun is less favourable to England than to almost any other country. Whereas his lordship's whole bent and study is to make glorious and happy this already totally undone nation. For what else but a heart entirely English could have persuaded an old, infirm, decayed, body and understanding, high in nobility, rich in excess, and without issue, to take upon himself the sole government of this hard-ruled people; but, for their good, what would he not, —nay, what does he not submit to! He stalks about a first minister,—not like the sun, for he cannot show us even the shadow of power;—condescends to preside at a board where he has no influence; to sit in a parliament where he has no utterance; and most assiduously attend a council where he has no opinion!"

This scathing letter concludes with a misquotation from the "Night Thoughts."

"Wits spare not heaven and Wilmington, nor thee,"

and is signed "John Grub, Grub Street."

Dr. Young, whose complimentary verses had occasioned the witty knight's onslaught, continued to feed Compton with the delicacies of dedication, and inscribed to him one of his satires. The poet Thomson also prefixed the name of Wilmington to his beautiful poem of Winter, without eliciting any solid requital of the venal praise. At length, Aaron Hill awakened the slumbering notice of the reluctant patron by some verses, which he addressed to Thomson, and published in one of the newspapers, censuring the great for their neglect of illustrious men. The manner in which the poet was tardily rewarded illustrates the indifference and apathy, which had succeeded to the zealous patronage bestowed by statesmen of the last age upon genius.[h] "I hinted to you in my last," (we cite the poet's own modest letter,) "that on Saturday morning, I was with Sir Spencer Compton. A certain gentleman, without my desire, spoke to him concerning me, his answer was 'I had never come near him.' Then the gentleman put the question, if he desired that I should wait on him: he returned answer he did. On this the gentleman gave me an introductory letter to him. He received me in what they commonly call a civil manner, asked me some common-place questions, and made me a present of twenty guineas. I am very ready to own, that the present was larger than my performance deserved."[i]

A less sum, it is not improbable, would have been

[h] D'Israeli's Calamities of Authors.

[i] Dr. Johnson's Life of Thomson.

more warmly welcomed, had the donor, in conferring his obligation, consulted more the spirit of a gentleman. The speaker seems to have put the dedication in his debtor and creditor account, and to have treated the author of the Seasons with about as much patrician *hauteur*, as he would have done the master tradesman who had called for his bill. This frigid patron, deluded into grasping at the shadow of power long after he had lost the reality, persevered in attending a council at which his opinions and wishes were constantly overruled, till his death, July 4th, 1743, but died first lord of the treasury, an earl, and K.G. The following extract from a letter of Lord Orford's to Pelham gives a truer notion of the esteem in which Lord Wilmington was held, than the blazonry on his monument. "The first turn Lord Bath will take will be to secure a continuance of the present treasury, and make, if he can, an arrant Wilmington of you, that is an arrant nobody." A political friendship of fifty years' standing could pronounce no worthier epitaph.

CHAPTER VII.

BEFORE considering the privileges still claimed by the speaker, interwoven with the dignity and independence of the House of Commons, and essential to the perfect discharge of their high duties, it will be interesting to review those extravagant abuses of power, long since obsolete, which they formerly usurped. Their demand of wages—a perquisite, rather than a privilege—however unsuited to modern notions of propriety, was once thought by no means unworthy "Goodman Burgess," and had one advantage at least, that of securing a punctual attendance, each representative being amerced of his wage for the days on which he might be absent.

It would appear, from the curious collection of writs *de expensis* made by Sir F. Palgrave, that the sums demanded by knights of the shire were not always uniform. Sometimes one knight receives 3*s.* a-day wage, and his colleague, also designated *miles*, 20*d.* only. The writ *de expensis* for Thomas de Luda, and Johannes de Sonninghall, in February, 1324, includes a charge of fourteen marks for twenty-four days' attendance at the parliament, and two days' coming, and two days' returning, at the rate of 3*s.* 4*d.* each per diem. There is a record of the sheriff of

Somersetshire being attached to answer for having assessed the wages of one of the knights of the shire at 16*d.* a-day only. For this incongruity, the learned collector of the writs states that no reason can be assigned. It may be conjectured, indeed, though with extreme diffidence, where such a diligent antiquarian is at fault, that the less payment was the condition of an express agreement before election between the knight and his constituents.

We read a presentment by the grand jury for the wapentake of West Derby, A.D. 1320, "that the sheriff of Lancashire had returned two knights without the assent of the county, and had levied £20 for their expenses; whereas the county could, by their own election, have found two good and sufficient men, who would have gone to parliament for ten marks, or at the most for £10." The counties in general appear to have been very reluctant in their payments. In 1311, a second writ *de expensis* was issued to the sheriff of Kent, "to make the levy, or show cause why he had not executed the writ." The sheriff made a return, "that at various county courts he had caused the men, almost all of whom held by gavelkind tenure, to assemble; that at three successive county courts they had declared unanimously that they were not in any manner bound to contribute to the expenses of the knights of the shire, nor could they, and that there were only very few freeholders in the county, and from whom the expenses could not be levied."

In proportion to the reluctance with which the represented gave, was the eagerness with which their representatives exacted the gift. Henry IV. having summoned a parliament in the fourteenth year of his

reign, and died before they had passed a single act, or even fulfilled that law of their being,—the granting a supply—the knights and burgesses petitioned his successor for their writs *de expensis*[a]. A demur was made at the royal treasury, that the worthy members had not entitled themselves to any wages, as nothing had been done; and the monarch gave an evasive reply, tantamount to a refusal, that "if any precedent could be found, allowance of their fees should be made."

Thrifty boroughs and economical corporations appear to have been in the habit of driving hard bargains with their would-be members. There has been preserved a curious indenture of agreement[b] between John Strange, member for Dunwich, and his constituents, so far back as A.D. 1463, by which it is witnessed that "John Strange granteth by these presents to be one of the burgesses for Dunwich, at the parliament to be holden at Westminster, for which, whether it hold for longer time or short, or whether it fortune to be prorogued, the said John Strange granteth no more to be taken for his wages than a cade full of herrings, and a half-barrel full of herrings, to be delivered on Christmas next coming." Still better terms were insisted on, with the progress of refinement, by the cunning corporation of Westbury[c]. "One Thomas Long, a very simple man, and unfit to serve, had crept into queen Elizabeth's parliament of 1571. When questioned how he came to be elected, he confessed 'that he gave the mayor of Westbury and another, £4 for his place.'" The House was greatly shocked, in those primitive days, at the notion of their member

[a] Coke's Institutes. [b] Dwarris on the Statutes.
[c] Sir Symonds D'Ewes

paying, instead of being paid, for a seat, and immediately ordered the mayor and town council to disgorge the money, to appear to answer such things as should be objected against them, and to suffer a penalty of £20 for their scandalous attempt.

The origin of the custom of allowing wages is traced by Barrington[d] to the great uncertainty which prevailed when parliaments were young, of the place where they would be held, the writ of summons being fixed capriciously, at one time for York, at another for Westminster. The cost of travelling made it reasonable that a member should be allowed some stipend. When a parliament met at Carlisle, as in the times of Edward II., the expense of the journey and the return, would more than absorb, in the vast majority of instances, the customary scanty allowance: 4*s.* a-day for the knight of the county, and 2*s.* for any citizen or burgess. The sum of 4*s.* a-day during the session, to which there soon grew up a usage of adding the charges in going and returning, equivalent to 20*s.* at the present standard, pressed heavily in those times of petty trade and slender profits on the electors of poor counties and of small towns, which petitioned to be exempt from this onerous representation. They discarded the expensive boon with as much alacrity as modern boroughs have sought to acquire it. Upon the larger corporate towns the burden was prolonged for several centuries, and is confirmed by various statutes[e]. In their unchecked abuse of the public purse, the remnant of the Long Parliament ventured to quadruple the statutory provision for members, and divided a bonus to each of £4 a-week.

[d] Barrington on the Statutes.

[e] The last statute is 35th Henry VIII., c. 11.

At length members themselves began to be ashamed of being classed among stipendiaries: they would not avail themselves of an odious statute, and in the pensioner parliament, burdened with sufficient opprobrium without this miserable pittance, they threw off altogether the badge of degradation. In March, 1676, the presbyterian knight, Sir Harbottle Grimston, moved for leave to bring in a bill to repeal the statute of wages, and desired it might be in particular for Colchester, the place he served for. A writ had gone down from Sir John Shaw, his fellow-burgess, to receive his wages for service done in parliament, and the town was in confusion. The debate which ensued curiously marks the rising sense of shame in some, and the dogged selfishness of other honourable members. "[e]Mr. Powle computed they had sat in that parliament 3000 days, which would be £600, and wages might be due in prorogations as well as adjournments. Sir Robert Sawyer suggested they should give up all but the last two years, for which selfish proposition, as it afterwards proved, he was sharply rebuked by Mr. Boscawen, who did not know why Sawyer, who had been but two years, should give away his wages, that had been sixteen years. Hereafter should boroughs be put out of fear, they will choose their own burgesses, blue aprons, and choose gentlemen no more. Mr. Love, one of the members for the city, confessed with much ingenuousness, 'that he had never received any wages from his constituents, nor demanded any, because he thought he never deserved any at their hands.'

"The loss of wages," Sir John Birkenhead argued, "is the only punishment the law has made for the absence of parliament-men from their attendance."

[e] Grey's Debates.

"Sir Richard Temple would have the bill go without a day for a second reading. 'Tis a reflection on the House to discharge the wages by law; it should be a free-will offering. Wages have been scarce received these eighty or one hundred years." "Some in the House," said Waller, and the amiable poet might glance at his own condition, "some are so poor, and some of the boroughs so rich, that to force men not to take wages would not be equal justice." The manner in which the bill came to be read a second time forms a striking proof of members' sensibility to shame.

"It endured a long argument," writes Marvel to his constituents[f], "insomuch, that when the question was put for a second reading, a gentleman who had disapproved of the bill, deceiving himself by the noise of the negative vote, required the division of the House, but so considerable a number of the affirmatives went out for it, that all the rest in a manner followed after them, notwithstanding their own votes, and there were scarce either tellers, or men to be told, left behind, so that it will have a second reading." The bill was silently dropt, but a feeling of pride prevailed with the great majority to waive these obnoxious and paltry, and almost obsolete, claims. It is no reproach to the memory of Andrew Marvel, that he should have been the last who exacted the provisions of the old statute, [g] for he preferred honest poverty to a courtier's corrupt wealth, and the cold meat of yesterday to luxurious viands at the expense of his country's freedom. The patriot who spurned Danby's bribe of a note for £1000, when that corrupt minister scaled his garret,

[f] Marvel's Works, vol. i.

[g] *Note.*—The worthy burgesses were not only good paymasters, but sent their members a yearly present of a barrel of ale. Writing a joint letter of business to the mayor, December 1660, they say, "We must first give you thanks for the kind present you have

might well demand his shillings from a body of constituents to whose interests he devoted his time, and whose public rights he would not sell or barter.

This discontinuance of receiving pay according to good old custom did not take place without the suppressed murmurs, the complaints not loud but deep, of all those who upheld things as they were, the *laudatores temporis acti*. The gossip Pepys records in his Diary, "At dinner with Pemberton, North, &c., had a good deal of good discourse about parliament, their number being uncertain, and always at the will of the king to increase, as he saw reason to erect a new borough. But all concluded, the bane of the parliament hath been the leaving off the old custom of the places allowing wages to those that served them in parliament, by which they chose men that understood their business, and would attend to it, and then could expect an account, but now they cannot."

Time has proved the fallacy of these regrets, and the members have gained in dignity far more than they have lost in pelf. At the Revolution, when all chimerical schemes of improvement were afloat, a pamphlet, attributed to the republican Colonel Wildman, suggested[h] that each senator should have for his salary or maintenance £1000 a-year. "The charge," he argues, "is a trifle. There is more spent in some monarchies on hawks, hounds, &c." This munificent proposal, which would offer too tempting a bait to eloquent political adventurers, fell to the ground unheeded at the time, to be revived after the lapse of a century and a half, among other new fantasies of popular excitement.

pleased to send us, which will give occasion to us to remember you often, but the quantity is so great that it might make sober men forgetful.'

[h] Somers Tracts, vol. ii.

The privileges of parliament, as formerly exerted, grasped at a larger sphere of patronage than wealth, and the most flagrant abuse usurped by both Houses was that of written protections. As the persons of members and of their servants were protected from actions or suits, as well as from arrest, they made this privilege a matter of barter, and extended it to any needy friend or retainer who might require a temporary shelter, granting him, however respectable in station, a certificate that he was their servant. The journals prove this to have been a flagrant departure from the privilege originally set up. When the servant of Mr. Hall (a member) was arrested in 1575, the Commons found no precedent for setting at large a servant by the mace, but only by writ, and every member used to take a corporal oath before the lord chancellor that the party for whom such writ was prayed came up with him, and was his servant at the time of the arrest. The House, we are told, freed the servant by the mace, but, afterwards, finding that he had fraudulently procured this arrest, in order to be discharged of the debt and execution, committed him to the Tower for a month, and until he should pay £100, probably the debt.

When a servant of Mr. William Cooke, a member, was arrested in 1601, on his bond, and complained to the speaker by letter dated "From the most loathsome and unfortunate hole in the prison of Newgate," Sir Robert Wroth moved to know whether Mr. Cooke would affirm that man to be his servant, who stood up and said, "He was one of his most necessary servants, for in truth (quoth he) he is my tailor!" It must be understood, that he was a menial plying needle and thread for the use of the household, according to a

custom far from uncommon among the families of country gentlemen at that period. The sequel of the complaint is curiously told in Townsend.[1] "The person that arrested Mr. Cooke's man was brought in, who after a sharp speech delivered by Mr. Speaker, shewing that he had committed an heinous offence to arrest any member of the House his servant, knowing that both their persons, their servants, goods, and everything they had were privileged during this great council. *How durst you presume to do it?* To which the poor old man answered upon his knees, 'that he knew not that his master was of the House. I do acknowledge I have offended, and humbly crave pardon, and I protest upon my salvation I would not have done it had I known his master had been privileged." The House were satisfied with this abject apology, and discharged him paying his fees.

In 1624 the earl marshal made a report to the Upper House, from the committee of privileges, appointed to enquire how far the privileges of the nobility do clearly extend, and concerning the freedom of their servants and followers from arrest. "These are to extend to all their menial servants and those of their family, and also those employed necessarily and properly about their estates, as well as their persons. This freedom to continue twenty days before and after every session, in which time the Lords may conveniently go home to their houses in the most remote parts of the kingdom." "The Lords should remember," is the warning language of the report, "the ground of this privilege, which was only that they should not be distracted by the trouble of their servants from attending to the serious affairs of the

[1] Townsend's Proceedings of Parliament.

kingdom; that therefore they will not pervert their privileges to the public injustice of the kingdom."[k] How soon the peers forgot this judicious admonition, and abused the license, we learn from Clarendon.

"The Lords," he writes, and he might have extended his complaint to the Commons, "gave their protections *ad libitum*, which were commonly sold by their servants to bankrupt citizens, and to such who were able, but refused, to pay their just debts; and when their creditors knew that they could have no relation of attendance to any man, and thereupon caused them to be arrested, they produced some protection granted to them by some lord, whereupon they were not only discharged, but their creditors, and all who bore any part in the prosecution, were punished with great rigour, and to their great loss and damage, and to the great prejudice of the city and interruption of the whole course of justice of the kingdom."[l] When pressed for a loan by both Houses of Parliament, in November 1641, the Londoners expressed their readiness, but comparative inability from this grievous imposition: "That by reason of the privileges of the members of both Houses, and the protections granted, especially by the Lords, a vast sum of money is detained from them; so that trade cannot be driven, nor are they so able to lend money for the service of the commonwealth, as they desired."[m]

So useful a weapon, both of defence and offence, was sometimes cleverly turned by faithless dames and cunning lacqueys against their lords and masters. In 1663 the Commons passed a resolution, that no wife or servant of any member of that House ought

[k] Lords' Journals, vol. iv. [l] Life of Lord Clarendon, vol. i.
[m] Parliamentary History, vol. ii.

to have privilege of protection allowed in any case against the husband of such wife or the master of such servant.[n] These scandalous perversions of power working general mischief, grew rapidly to such an excess as to compel the reluctant animadversion of the House. Mr. Benson, a member, having sold many protections, taking as little for some as 16*s.* or 17*s.*, the House, ashamed apparently of their protections being disposed of so cheaply, resolved "that Mr. Hugh Benson is unworthy and unfit to be a member and shall sit no longer." Andrew Marvel relates to his constituents at Hull another instance of salutary rigour. "Sir John Pretiman, who serves for Leicester, was yesterday suspended from sitting in the House and from all privilege till he find out Humes (a most notorious fellow otherwise) whom he suggested to be his menial servant, whereas he was a prisoner for debt, and thus by Sir John's procurement has escaped his creditors. The serjeant was sent into the speaker's chamber with the mace to bring him to receive the sentence upon his knees at the bar. Hereupon the House being disappointed (for in the meanwhile he was escaped by the back door), ordered that door to be nailed up for the future, have revived their votes of 1663 against all paper protections, against protection to any but menial servants, and to-day, after a long debate for expelling him, the House have for some good reason, given him till the second Tuesday after our next meeting to appear."[o] This delay saved the delinquent, but his offence was too rank to be readily hushed up.

Constrained into an appearance of activity, the

[n] Journals, vol. vii.

[o] Marvel's Letter to the Mayor of Hull, April 9, 1670.

speaker in 1677 issued his mandate to supersede and call in all paper protections. The messengers found no less than 800 in London and Middlesex! As soon as it became noised abroad that some redress might be anticipated by the petitioners, a case of peculiar enormity was brought to the notice of the indignant Commons—an instance of licentious daring that would exceed belief, did not all experience teach the lesson, how much abuse "doth grow with what it feeds on." A petition was presented from Mrs. Cottington, complaining that Colonel Wanklyn, a member, protected Mr. Cottington, her husband, as his menial servant, against the decision of a cause depending between her and her husband about the validity of their marriage at Turin in Italy, she being a native of that country, and humbly praying the said protection might be withdrawn. This Mr. Cottington, protected as a menial servant, was living, it appeared, in the character of a gentleman on an income of £2000 a-year, equivalent to an estate of £6000 per annum at the present standard of value.[p]

Colonel Wanklyn, when called upon to explain, made a lame apology: "I did withdraw my protection according to a promise I had made the speaker, but the Bishop of Lincoln said, Mr. Cottington had received a sentence in the Court of Arches contrary to the law of God, and that the gentleman was under a hard censure, and so I granted him my protection, but revoked it on Thursday last!" This hypocritical pretence of deferring to the opinion of the Bishop of Lincoln could not save the venal colonel from deserved punishment. The subject of his delinquency and doom afforded a regular field-day to the House; as at

[p] Grey's Debates.

a hunting party, the whole pack of senators, courtiers, and country gentlemen, joined in full cry to run down the started and stricken victim. He was ordered to withdraw, and members seemed eager to prove their own immaculate innocence by saying the most bitter things against him. Even the corrupt Secretary Coventry assumed a tone of austere virtue. "If you give your members leave to protect persons against judgments and sentences, when they think the judges are in the wrong, the House of Commons will be a great place!"

The speaker read an old order, made when Sir Edward Turner was in the chair: — "Resolved, that all protections and written certificates under the hand of any member of this House be void; and that all menial servants be protected only according to law, and that this order be printed and published." Sir Robert Sawyer declared that he had read the protection granted by Colonel Wanklyn, which was filed in the exchequer, directed, "To all mayors, bailiffs, sheriffs, &c.," in as high a style as a proclamation, neither to stir hand nor foot, and threatening what penalty would ensue for breaking his privilege! Fired at the notion of such high-handed injustice, Mr. Hale, an honest country gentleman, expressed his abhorrence with almost Spartan brevity: "This man is not fit to keep us company, and I humbly move that he may be turned out of the House!" One friend alone in that venal assembly, Mr. Secretary Williamson, rose to say a single word against this peremptory motion, or to suggest an apology for the humble voter for government: "All orders, rules, and practices of granting protections, have been overlooked in this House; and this man is unfortunate that he must fall for two errors:

Colonel Wanklyn has been a soldier and a commander, and, therefore perhaps, the lawyers are against him." To remove their reluctance to a vote of expulsion, Mr. Waller suggested that he had seen twenty men in a morning put out of the House, and Sir Richard Temple expressed a unanimous feeling, that, "To protect a gentleman of £2,000 a year for a man's menial servant is an extraordinary thing!"

It was resolved, without a division, that granting protections to persons, not menial servants, is against the justice and honour of this House, and that Colonel Wanklyn be expelled. The speaker, Sir Edward Seymour, caught the tone of severity which is always contagious in a large assembly, and suggested that the colonel ought to receive his sentence of expulsion on his knees. He was saved from this indignity, however, by the interposition of a brother-soldier. "When pardons are read," said Colonel Titus, "in courts of justice, the pardoned persons hear them read on their knees. A sentence of condemnation ought to be received standing." Sir Thomas Littleton agreed in this humane suggestion. "Wanklyn is none of you now; he is cut off from you, and, therefore, it is not proper to bring him on his knees to receive his sentence." The unhappy colonel was then called in, and, having heard his fate, to the scandal of his brother-officers, went away weeping!

It might have been reasonably expected, after this mark of just severity, that a final stop would be put to all traffic in counterfeit protections, but the evil had taken too deep root to be at once abolished. Needy members still continued to sell certificates, and persons in respectable station would not scruple, on an emergency, to produce their passports of safety, even though they

might perchance be described in them under the masquerade guise of grooms or footmen. The journals of the House disclose a continued prevalence of the abuse. Soon after the Revolution, a petition was presented from Millicent Oddley,[q] stating "that she was in custody for causing one Gregory to be arrested, in regard he is a servant to the Lord Fairfax. That this Gregory was tenant to the petitioner, who had nothing to live on but her rent; for the long arrears of which, she had caused him to be arrested, he having lived in her house about five or six years. That he was a surgeon; that she did not therefore know he was his lordship's servant, and never saw his lordship's certificate, but that she did, nevertheless, discharge her tenant, as soon as she heard of the protection." The House were graciously pleased to order that Millicent Oddley should be discharged out of custody, paying her fees; and so the poor widow woman was fined and imprisoned for enforcing a just debt against a fraudulent debtor, and deprived of five years' rent, because her tenant, a surgeon, claimed to be the menial servant of a peer, and, shame to the privileges of peerage, had his claim allowed!

The dignified mischief was still connived at, and, to enhance the evil, multiplied by forgery. In 1690 the House was informed, [r] that Captain Taylor and Mr. Gibson had counterfeited a protection, under the hand and seal of Philip Coningsby, Esq., a member; they were committed prisoners to the Gate-House, and the sheriffs of Middlesex and secondaries of the city of London ordered to attend, with an account of the protections that had been entered in their respective offices.

[q] Journals, vol. xi. [r] Journals, vol. xii.

Reluctantly as the fact of disobedience to certain solemn resolutions was thus obtruded on their notice, the House, in vindication of its consistency, passed a further order, that all protections and written certificates of members be declared void in law, and be forthwith called in and withdrawn, and that none be granted for the future; and that, if any shall be granted by any member, such member shall be liable to the censure of the House; and that the privilege of members for their menial servants be observed according to law, and that if any menial servant shall be arrested and detained, contrary to privilege, he shall, upon complaint thereof made unto the speaker, be discharged by order from him.

Even this order, though tending to suppress, was not sufficient to cut down and extirpate the abuse. The Bishop of St. Asaph was compelled to present a petition,[s] that he wanted to serve Peter Price with a declaration in ejectment, but that he could not prevail with any attorney to make out the record, in regard that Hugh Verney, a member, protected the man, though he was not a menial servant of his. So far had spread the terror of this outstretching usurpation, that even the valour of the ancient Britons quailed before it! The order was again renewed in 1695, in the self-same words; a resolution was again voted, that all written protections given by any member are void and against the standing order of the House. A further notice was proclaimed in the third year of George I., when the nuisance was at length tardily abated, but not before the propriety of extending protections to the actual servants of members began, out of the walls of St. Stephens, to be generally questioned. The sound

[s] Journals, vol. xiv.

sense of Swift pronounced the claim to be manifestly absurd, remarking, in his wonted strain of bitter irony, "that the sacred person of a senator's footman shall be free from arrest, although he undoes the poor alewife by running up a score, is a circumstance of equal wisdom and justice, to avoid the great evil of his master's lady wanting her complement of liveries behind the coach."

The plea that a member could not dispense with the attendance of a needy or dishonest servant would not bear argument. Yet so reluctantly were even unreasonable privileges relinquished, that the protection clothed these serving-men till the reign of George III., and is even now named by the speaker, though abolished by statute.[t] The origin of the claim is coeval with the sitting of parliament. The act of Henry IV., which is the first instance of "privilege of parliament" being mentioned in the statute-book, directs a specific penalty for any assault on the servant of any member. Down to the close of the reign of Henry VIII., the privileges claimed by the Commons were for the Knights, Citizens, and Burgesses, and their menial servants, or *familiares*, present with them during their attendance in London. The duration of these privileges was confined to their coming, staying, and returning to their houses. Their extent was, to be free from any assault, or from arrest, or imprisonment, except for treason, felony, or surety of the peace.

On the accession of the Stuarts, these prescriptive rights began to be pushed with jealous eagerness to the very verge of constitutional license, in exact proportion to the excess with which James advanced his prerogative. A remarkable incident of that period shows the violence

[t] Hatsell.

with which the usurping, because alarmed, Commons sought to enforce their demands. On the 4th of June, 1621, the House is informed of Johnson, Sir James Whitelocke's man, being arrested. 'The parties are immediately called to the bar, and heard on their knees in their defence, and, after a variety of propositions made for several degrees of punishment, it is ordered upon the question, that they shall both ride upon one horse, face blacked, back to back, from Westminster to the Exchange, with papers on their breasts with this inscription: "For arresting a servant to a member of the Commons' House of Parliament," and this to be done presently, 'sedente curiâ,' and this, their judgment, was pronounced by Mr. Speaker, to them at the bar accordingly.'[u] This very new and extraordinary punishment was awarded, though it appears from the journals and the parliamentary proceedings, that both these parties had acknowledged their fault, and craved forgiveness of the House and of Sir James Whitelocke.[w] The House, we may be sure, would have been more temperate in its censures, had it been convinced of their justice.

From this time the journals abound in complaints of members for breaches of privilege committed on the persons of their servants, a grievance more frequent than any which affected themselves personally, as the condition and habits of the serving-men rendered them more liable to be involved in petty litigation. Some of these complaints illustrate strongly the injustice that was done. We read in the journals of one captious member stating as a grievance that his servant's cloak had been detained at a tavern to secure payment. Neither the injured master, nor his brother members,

[u] Petyt's Miscellanea Parliamentaria. [w] Hatsell.

seemed to care whether the tradesman received part of his bill or not, but committed the unfortunate vintner to the custody of the serjeant for contempt in detaining the cloak, and, after some ten days' imprisonment graciously discharged him, on paying his fees! Another master, a learned civilian, Dr. Steward, rose to complain of his servant being committed to prison as the father of an illegitimate child. The warrant had been signed by four justices, during a vacation, but was not executed before the commencement of the session. It does not appear whether the commitment was made for the offence "contra bonos mores," or on the Act of Elizabeth, on the man refusing to pay for the keep of the child, but as the case could not in either alternative be construed into a breach of the peace, the committee of privileges reported in his favour. After a fruitless debate upon the expediency of his paying all charges, the privileged individual escaped scathless. Fortunately for the true honour and real privileges of the House, these sins and follies date as far back as the beginning of the 17th century, and now only raise a smile at the over-jealous scruples of our forefathers.[x]

The privilege claimed by members on their own behalf, of being protected from all actions of law or suits in equity, was supported by more specious arguments of convenience, but wrought still greater injustice. Assuming the fact that, during their attendance in parliament, it was impossible for members to go down to the assizes, and be present at the courts of law, to prosecute or defend their causes; and that it

[x] Many of the cases are collected in the excellent pamphlets of Mr. Pemberton, Q.C., and Mr. Pickering on the abuses of the privileges of the House of Commons.

was not expedient their attention should be distracted from the weighty business of the public, for which they had been summoned, by avocations of a private and less important nature, the representatives of the people presumed to hold the law and its terrors at defiance. This theory, like some of the Roman Catholic superstitions, was founded on too sublime a notion of the attributes and duties of members, on a grand parliamentary fiction. Taking for granted that a country gentleman, from the moment he was girded with the sword as knight of the shire, would think of nothing but public measures, spend his days in framing new laws, and "sleep with a volume of the statutes under his pillow"[y], it might, perhaps, be conceded that he should not be molested with domestic grievances, or drawn aside from the public by private cares. But, as the recess generally comprehended, till the latter end of the eighteenth century, eight, or sometimes nine months of the year, even the dignity and public abstraction of a member could not have been compromised by his being permitted, when parliament was not sitting, to "do justice and love mercy," to settle disputes with his neighbours, and to pay his poor debtors.

The judges disallowed the formal claim of the Commons, when first set up, "not to be impleaded in any personal action." Accordingly, in 1584, the House, ascertaining that they should meet with difficulties, if not a positive refusal, on applying to the courts at Westminster, took the remedy into their own hands. Upon the motion of Mr. Harris, that writs of supersedeas might be issued, divers members having writs of nisi prius brought against them, to be tried at the

[y] The Rev. Sydney Smith's abstract idea of an M.P.

assizes in sundry places of the realm, the speaker was directed to write and enclose their commands to the chancellor. As we hear of no further complaints, it may be taken for granted that the chancellor Wotton submitted to the speaker's warrant.

In February 1606, several letters were sent by the then speaker to the judges of assize, for the stay of suits in which members were interested, "as in other like cases hath been usual;" and the speaker expresses his reasons, "fearing lest the cause might receive some prejudice by the absence of the member, or withdraw his attendance from this great service, which it is the principal care of his majesty and this House to prevent." With this peremptory demand, the dread of a visit from the serjeant-at-arms induced the judges to comply.

Once acquiesced in, the right was speedily enforced and multiplied. As the principle applied, members obtained an indemnity from attending the courts of law as witnesses. In 1601, Mr. Johnson addressed the speaker, "I thought it my duty to inform you that myself and divers others are served with subpœnas. I do not this either that I am loath to answer, or desire to delay justice, but to inform the House thereof, lest, peradventure, it might be a precedent, or some prejudice to the privilege of this House." After some dispute, an ancient member showed divers precedents, how "that the minds of the members ought to be freed as well as their bodies;" whereupon two members of this House were sent to *require* the lord keeper to reverse that subpœna[z]. A compulsory dispensation of the attendance of parliament men as jurors, "sedente curiâ," had been

[z] Townsend's Proceedings of Parliament.

enforced some years before. "15th Nov. 1597. Sir John Tracy being at the common pleas bar to be put upon a jury, the serjeant-at-arms was presently sent with his mace to fetch him thence to attend his service in the House[a]." In May 1604, Sir Edward Montague, having informed the Speaker that he had been warned to appear upon a trial at Guildhall the next day, was voted to be entitled to privilege, because his appearance must of necessity withdraw his presence and attendance. In 1626, the great confessor for privilege, Sir Edward Coke, standing *de facto* member, though at the time sheriff for Bucks, was declared entitled to his privilege of staying a suit in chancery, commenced against him by the Lady Cleavre. Under the auspices of that venerable patriot, the House of Commons advanced and made good their claims to extend the right of protection in its integrity over an adjournment of five months.

Sir Edward Coke dictated the order, worth remarking, from its comprehending every sort of privilege to which a member of the House was at that time thought to be entitled[b],—"That, in case of any arrest, or any distress of goods, serving any process, summoning his land, citation or summoning his person, arresting his person, suing him in any court, or breaking any other privilege of this House, a letter shall issue, under Mr. Speaker's hand, for the party's relief therein, as if the parliament was sitting, and the party refusing to obey it to be censured at the next session." It would be superfluous to show how submissively these exemptions were conceded to the House. The grievous hardship inflicted upon all who, to their sorrow, might be

[a] Hakewell's Memorials of Proceedings. [b] Hatsell.

involved in disputes with the privileged class, became aggravated as the duration of parliaments increased; and a statute of limitations, highly useful in itself, fixed six years as the period within which personal actions must be commenced.

As the pensioner parliament of Charles II. lasted for seventeen years, witnesses died before an action could be commenced, and all remedy for wrong was denied by mere lapse of time. This iniquity wrung from an honest burgess the frank confession that "such a privilege was an invitation to bad men to get within the shelter of parliament;" that, by the death of witnesses, parliament being longer than formerly, litigants might lose their lands as well as their debts. But public bodies of men have little conscience and still less shame. The evil continued without redress till some years after the Revolution Of its alarming prevalence and extent some idea may be formed by the following petitions selected out of many score, embodying grievous sufferings at this period by various unhappy victims.[c] A petition of Dame Elizabeth Windham, widow, set forth that petitioner had joined with her late husband in settling an estate in Somersetshire on his brother, Sir Francis Windham, now a parliament man, with a proviso, that the trustees in the settlement should, out of those premises, raise and pay the petitioner £1000 within three months after her husband's death. He had been dead six years, yet she could not recover her £1000, being obstructed therein by the present baronet insisting on his privilege as a parliament man.

The wrongs inflicted appear equally great, when honourable members were plaintiffs, as the rights un-

[c] Journals vol. xii.

redressed, when they were defendants.[d] In 1698, complaint was made that James Greville had entered on the estate of Sir Ralph Dutton, and felled a tree of some value, an elm, and carried away great part thereof, nay, had assaulted and beaten his steward. As a matter of course, the party complained against was sent for in custody of the serjeant. In his petition Mr. Greville disclosed to the curious ear of the House a very different version of the trespass imputed—that he had never entered on Sir Ralph's estate at all, nor cut down any tree of his, but a tree which grew on his own manor, and was planted by his ancestors—that he had never assaulted the steward, but that this person, with five more, had come on his own ground, where he was walking with a gun in his hand, which they endeavoured forcibly to take away, an act of violence, that he resisted as he lawfully might. He complained of having been put to great trouble and expense by this frivolous information, and prayed that he might be heard on the matters charged against him, and be released from his confinement.

The case was referred to a committee of privilege, who, having no power to administer an oath, heard evidence of the most conflicting character, the statements of interested parties, undeterred by terror of perjury. One old man had been present when the elm was planted by an ancestor of the petitioner; another knew that the tree grew on the waste of Sir Ralph Dutton's manor. One witness deposed that the petitioner was qualified to keep a gun, having an estate of above £100 a-year; another that the steward had a warrant from the justice to take away his gun, as an unqualified person. The committee, after patiently

[d] Journals, vol. xiii.

listening to the evidence, came to a resolution, "That Mr. Greville was not guilty of a breach of privilege in aiding and abetting the cutting down the tree called Forden Elm." The House at large, who had not heard any evidence, disagreed by 113 v. 94, with this resolution of the committee, lest it should disparage their member, but directed that Mr. Greville be discharged out of the custody of the serjeant. Thus, as we may reasonably infer, for cutting down his own tree on his own grounds, a gentleman was imprisoned for three weeks at a grievous cost, and, when discharged, debarred of all remedy at law.

So confident had members become in this high-handed tyranny, that some fancied they might commit acts of trespass and (what Coke and the old champions of parliamentary privilege had never dreamt of) breaches of the peace with impunity. Sir Bourchier Wray, baronet, an infant, presented a petition by his guardians in 1697[e], stating that Sir William Williams, with a great number of armed men, forcibly broke open two capital houses of his deceased ancestor, drove the servants out of possession, carried away all the plate, furniture, and three sacks full of writings; broke open the houses of several of the tenants, and drove the cattle off the premises, threatening to serve all in like manner, who would not attorn to Mr. Owen. To support this violence, he threatens to insist on his privilege, which has had such an effect that no justice of the peace will meddle in the matter, though applied to, for fear of displeasing the House; that Mr. Owen is proceeding to cut down the timber, and threatens to keep possession of the estate, in defiance of the devisee."

[e] Journals, vol. xii.

The Revolution had, however, introduced juster notions respecting other men's rights, and the audacious abuser of privilege found himself disappointed in his overweening pretensions. The House granted the reasonable prayer of the guardians, that they might have liberty to seek relief against Mr. Owen for his breach of the peace, without incurring their displeasure, and resolved (strange so reasonable a proposition should have required a resolution) anew the doctrine that had been established two centuries before, "That no member had any privilege, in case of breach of the peace, or forcible entries, or forcible detainers." Acting in a similar spirit of wise and liberal concession, the House adopted several resolutions to check the exorbitance of these still fondly-cherished pretensions. A committee, over which Sir Richard Onslow presided, reported several resolutions[f]: "That no member should have any privilege, except personal, against any Commoner, in any suit or proceedings in courts of law or equity, for any longer time than the House was actually sitting for despatch of business; that a Commoner have at all times liberty to file any writ, or make any entry to save a right, in order to prevent any bar by the statute of limitations against any member. That a Commoner have at all times liberty to exhibit any bill in equity against any member, in order only to examine the witnesses, to preserve their testimony, notwithstanding any privilege." These resolutons, being afterwards embodied in an act of parliament, reduced within compass the enormity of the evil, which was afterwards, with the increase of intelligence and freedom

[f] Journals for 1698.

wholly removed, the person of the member being left sacred, but all his other distinctions annulled.

The privilege of members from having their goods taken in execution was, in its commencement, expressly confined to such goods and chattels as it was necessary the member should have with him during his attendance in parliament, or in returning to his house: a chair, on which to sit down; a table, on which to eat his meals; a bed, to lie down upon, were certainly essential to the comfort of each individual summoned to the great council of the nation. But the same principle did not apply to the goods left at home, in the country, except so far as a distress on them might be deemed to distract his thoughts.

According, however, to that expansive spirit by which all their privileges grew and multiplied, the personalty of members became entitled to the same complete protection as the persons of members themselves. The sheriff of Hampshire, in 1606, caused a distress to be levied on the goods of Sir William Kingwell, which the knight had left behind him when he set out for Westminster. As these goods could not be brought within the claim established in Atwyll's case, of goods necessary to be had with him, the speaker wrote a courteous letter to the sheriff, informing him of these extended rights, "That the privilege of parliament, during the time of service there (haply not so well known to yourself), reacheth, as well to the goods as persons of any member. I am therefore to advise and require you, that you forthwith procure restitution of the said goods, according to the privilege, lest that danger grow upon it, which I should be loath you should undergo."

It is probable the sheriff took the speaker's advice.

An injudicious attempt was made by Charles I. to justify the seizure of goods for duties owing to the crown, and the officers of the customs levied a distress in the warehouse of Mr. Rolles, a member, by his majesty's express command.[g] The Long Parliament protested fiercely against this inroad of the king's prerogative, and there certainly appeared no valid distinction between the royal revenues and the rights of a subject, were this privilege one that ought to have prevailed against the claims of either. It was reserved for the intelligence of a later age to discover that a member of parliament lost no security worth contending for by divesting himself of all vexatious immunities—that he gained ease and freedom by throwing off that irksome armour which encumbered him with protection, and, in the emphatic language of the dramatist, "only scalded with safety."

[g] Parliamentary History, vol. ii.

CHAPTER VIII.

HAVING thus cleared away the superfluous and oppressive privileges—the wood, hay, and stubble, which cumbered the surface—we may proceed to examine and admire those constitutional rights, upon which, like pillars of adamant, the powers of the House are supported; entire immunity of person, except from matter of criminal charge, and to every member perfect liberty of speech. This freedom of debate, "the quintessence of the four essences[a]" (to use Coke's quaint phraseology), was not made one of the articles of the speaker's petition to the throne till the thirty-third year of the reign of Henry VIII. But a century sooner, on the accession of Henry IV. in 1399, Sir John Cheney preferred a general request, as speaker, that the Commons might enjoy their ancient privileges and liberties, not naming any in particular, but glancing at this as the chief.

It forms an interesting chapter in the history of St. Stephen's Chapel, to look back and see how bravely this licence was battled for by our forefathers; how jealously it was watched and impugned by the Tudors and Stuarts; with what persevering

[a] Coke's Reports. [b] Hatsell's Precedents.

art the courtiers essayed to control or abridge its exercise; and with what stubborn firmness the patriots of those days insisted on maintaining, nay, enlarging its foundations. The student of English history will delight to trace by what painful efforts, and against what determined opposition, this hardy plant throve and flourished, flinging out an expanded shade, till at the Revolution it struck its roots into the very centre of the constitution.

The Bill of Rights did not, however, insert the Commons' Magna Charta for the first time in the statute book. In the fourth year of Henry IV., Mr. Strode, a member, having proposed a bill in parliament for the regulation of the tinners in Cornwall, was prosecuted in the stannary courts for that offence; and, there being condemned in a large sum of money, was imprisoned in Ladford Castle, but delivered by a writ of privilege. This extraordinary proceeding being represented by him in petition, an act was passed in the same year to annul and make void these several judgments and executions; and it was further enacted, "that all suits, fines, amerciaments, punishments, and impositions, put and had in the said record, or to any other person of this present parliament, or of any parliament hereafter, for any bill, speaking, reasoning, or declaring of any matter concerning the parliament, to be commenced and treated, be utterly void and of none effect." By a resolution of the House, November, 1667, this act was pronounced to be only a "declaratory law of the ancient and necessary rights and privileges of parliament. But, however ancient, the Commons exercised their right with flattering humility during the reign of the butcher-king, Henry VIII.; and were constrained to

wrangle for its preservation when repeatedly threatened by good Queen Bess. The journals show, with amusing quaintness, the manner in which these struggles were carried on. Her faithful Commons, early in the reign, became loyally anxious that Elizabeth should marry; and her maidenly scruples, no less than royal dignity, took alarm at the notion of their interference.

"[d]1566, October 30th. A committee of both houses is appointed to petition the queen about her marriage. November 9th, Saturday. Mr. Vice-Chamberlain declares her majesty's express commandment that they shall no further proceed in their suit, but satisfy themselves with her highness' promise of marriage. November 11, Monday. It is moved whether the queen's command is not against their liberties. This dispute lasts from 9 A.M. to 2 P.M. and is adjourned to next day. November 12th, Tuesday. The speaker communicates a special commandment from her highness to this House, 'that there shall be no further talk of the matter; and if any person is not satisfied, but had reasons, let him come before the privy council there to shew them!' November 25, Monday. Mr. Speaker declares her highness' pleasure to revoke her two former commandments, which revocation is taken of the House most joyfully, with most hearty prayers."

The discussion was afterwards revived, not in reference to that particular service in the Book of Common Prayer, but on the propriety of reforms in the common prayer itself. Mr. Strickland, a member, having introduced a bill for an alteration of the rubric—to forbid the kneeling at receiving the com-

[d] Sir S. d'Ewes.

munion—was the next day called before the queen's council, and commanded by them "to forbear going to the House till their pleasure was further known." His detention was complained of; and the House would not accept the apology of Mr. Treasurer, that "he was in no sort stayed for any word or speech by him in that place offered; but for the exhibiting a bill into the House against the prerogative of the queen, which was not to be tolerated." The next morning, almost as soon as the House met, Mr. Strickland came in to their great joy[e].

That politic princess knew well how to yield, when there was danger in pressing an obnoxious prerogative too far, but returned again to the charge, again to be baffled by the vigilant Commons.

A bill relating to rites and ceremonies in the church having been read three times, the speaker declared it to be the queen's pleasure that from thenceforth no bills concerning religion should be preferred or received into that House, unless the same had been first considered and approved of by the clergy. Peter Wentworth, a Puritan, "the forerunner of the Pyms and Hampdens in the next generation," protested against this declaration in a speech tinged with enthusiasm, but sublimed by a tone of patriotic vigour[f]. 'Having opened on seven different grounds the commodities that grow to the prince and the

[e] Parliamentary History, vol. i.

[f] Professor Smyth has given a vivid sketch of these first stirrings of freedom in one of those delightful lectures on modern history with which our literature "magnas inter opes inops" has been lately enriched,—lectures which, in language often most eloquent, and in a narrative always interesting, reflect the calm wisdom of the moral teacher upon the acquirements of the scholar, and, whilst they inform our understandings, elevate the feelings, and purify the heart.

whole state by free speech used in this place,' the orator concludes, that "in this House, which is termed a place of free speech, there is nothing so necessary for the preservation of the prince and state as free speech, and without this it is a scorn and mockery to call it a parliament House; for in truth it is none, but a very school of flattery and dissimulation, and so a fit place to serve the devil and his angels in, and not to glorify God and to benefit the commonwealth."

The House, out of a reverend regard to her majesty's honour, stopped him before he had fully finished, and sequestered the rash member for his imprudence. The next day he was brought from the serjeant's custody to answer for his speech to a select committee. "I do promise you all," said this intrepid patriot, "if the Lord forsake me not, that I will never during life hold my tongue, if any message is sent, wherein God is dishonoured, the prince perilled, or the liberties of the parliament impeached." He was then sent to prison "for the violent and wicked words yesterday pronounced by him, touching the queen's majesty[g]." In a month afterwards the queen was pleased to remit her displeasure, and to refer the enlargement of the party to the House. But, though defeated in open assaults upon their debates, Queen Elizabeth lost no opportunity of letting the House know her stedfast determination to confine their liberties within the narrowest possible limits. When the speaker, Sir Edward Coke, demanded their privileges for her last parliament, Sir John Puckering, the lord keeper, replied by her command[h], "Privilege of speech is granted, but you must know

[g] Smyth's Lectures, vol. i.

[h] Townsend's Proceedings of Parliament.

what privilege you have, not to speak every one what he listeth or what cometh into his brain, but your privilege is 'Aye, or No.' Free access is granted to her majesty's person, so that it be upon urgent and weighty causes, and at times convenient, and when her majesty may be at leisure from other important cares of the realm."

With equal *hauteur*, but with greater misadventure, her feeble successor declaimed, in a tone of splenetic tyranny, against his Commons' vaunted liberty of speech, nor could the issue of the contest be doubtful, for, where the pusillanimous James assailed, Coke, with the newly-roused vigour of the people of England, defended. There may sometimes be detected, it is true, a strange appearance of pusillanimity and vacillation in their proceedings, nor as yet had the constant intermeddling of the monarch with debates only partly concluded, and bills incomplete, attracted sufficient notice. Sir Charles Piggot having made a desultory speech against the Scottish nation, the king sent a message to the House, to complain of a member[1] urging matter of invective against his own people, using many words of obloquy and scandal, ill beseeming such an audience, not pertinent to the matter in hand, and very unseasonable for the time and occasion. "He did much mislike and tax their neglect, in that the speaker was not interrupted in the instant, and the party committed before it became public and to his highness's ear."

It was ordered that Sir Charles Piggot be committed to the Tower during the pleasure of the House, be dismissed from his place as knight of the shire for

[1] Petyt's Miscellanea.

Bucks, and that a writ be issued for a new choice. Upon a message from the king he was discharged from custody. The unfortunate knight had probably made himself personally obnoxious, for we read[k] of his being some time before reprimanded by the speaker for not standing up bare-headed; but even on this hypothesis it would be difficult to acquit the House of tamely yielding up their member as a victim to the royal vengeance. "Privilege of speech," says Hatsell[l], "was frequently cavilled at by the courtiers in the reigns of Queen Mary, Elizabeth, and James, when they thought it trenched on the royal prerogative, and in general the House acquiesced too much in this doctrine." They inveighed against "some tribunes of the people, whose mouths could not be stopped;" declared that "a member must not speak what and of whom he list;" and threatened "those idle heads that would meddle with reforming the church and transforming the commonwealth." But when James, in his zeal for absolute monarchy, wrote a letter to be communicated to the Commons, in which, speaking of their privileges, he says, "We could not allow of the style calling it their ancient and undoubted right and inheritance; we cannot with patience endure our subjects to use such anti-monarchical words," he was encountered by a spirit as haughty as his own. In December, 1621, Sir Edward Coke and Noy assisted in drawing up a protestation and remonstrance "that every member hath freedom from all impeachment, imprisonment, or molestation, other than by censure of the House itself, for or concerning any bill, speaking, reasoning, or declaring of any matter

[k] Parliamentary History, vol. i.

[l] Hatsell's Precedents, title Privilege.

or matters touching the parliament or parliament business." The angry monarch soon after sent for the Journal Book, and in council, with his own hand, tore out the protestation.

It was an act of impotent rage: the rent leaf was soon replaced, and will ever form the first page in the journal of parliamentary privilege. From that period the Commons urged their rights with more uniform boldness, exchanged the 'baited breath' of submissive petition for a language more becoming freemen of firm remonstrance, and interfered to prevent the dastardly revenge which singled out the boldest speakers, Sir Edwin Sandys, Mr. Morice, and many others, for punishment, as soon as parliament had risen. Some members having been committed in 1614, for speeches they had delivered in parliament, during the first session, the grievance was discussed as soon as the next parliament met, at a length and with a spirit proportioned to its exceeding importance. After a debate of several days, it was determined that they should proceed by message to the king, and not by petition in writing, to desire that, if any of the House should speak in any doubtful manner, they may be censured here, and not be punished in or after the parliament. But, during the debate on that question, a message to the House was brought from the king by Mr. Secretary Calvert, to say, that "his majesty did grant liberty and freedom of speech in as ample manner as any of his predecessors ever did, and, if any should speak undutifully (as he hoped none would), he doubted not but we ourselves would be more forward to punish it than he to require it; and he willed us to rest satisfied with this, rather than to trouble him with any petition or message, and so cast

ourselves upon one of these rocks, that, if we asked for too little, we should wrong ourselves; if for too much, or more than right, he should be forced to deny us, which he should be very loath to do."

This message put an end to further proceedings, and involved the Lower House in a false security. No sooner had they closed their sittings, than "those ill-tempered spirits," Sir Edward Coke, Sir Robert Philips, Mr. Pym, Mr. Selden, and Mr. Mallory, who had been the most forward in asserting the privileges of the House of Commons, were committed to the Tower and other prisons; the locks and doors of Sir Edward Coke's chambers in London and in the Temple were sealed up, and his papers seized[m]. Sir Dudley Digges and others, as a lighter punishment, were sent into Ireland, to inquire into matters concerning the king's service.

The attacks thus fiercely urged against the chief of the Commons' privileges, to which all the rest might be considered subordinate and ancillary, were renewed by Charles with double vehemence, his character being firmer, and assumption of the royal prerogative still loftier than his father's. Accordingly, in the first session of his first parliament, Charles proceeded to attack the freedom of debate, sending a message[n] to complain of a seditious speech by Mr. Clement Coke, youngest son of the great lawyer, that "it was better to die by an enemy than be destroyed at home;" and still more of the civilian Dr. Turner having made an inquiry of sundry articles against the Duke of Buckingham, as he pretended, but in truth against the honour and government of the king, his

[m] Johnston's Life of Sir E. Coke.

[n] Parliamentary History, vol. ii.

late father, adding a threat, in the guise of hope, that the king might not be constrained to use his royal authority to right himself against these two persons." The Commons attended with a remonstrance, and declared, that "neither the words mentioned in his majesty's message, nor any others of seditious effect, were spoken by Mr. Coke, as hath been resolved by the House without one negative voice. However, he did let fall some words, which might admit an ill construction, but, being generally and instantly checked, forthwith explained himself as to his intentions." The king was forced to be content with this apology, and found his forbearance rewarded by the House acquiescing in his mandate, when the respect due to the sovereign had been really outraged. Mr. More, a member, having said in the following session, "That we were born free, and must continue free, if the king would keep his kingdom;" adding, "as thanks be to God, we have no occasion to fear, having a just and pious king;" on the king representing these words to the House, a committee was appointed to examine the matter, and, though cleared of ill intentions, the audacious speaker was committed to the Tower for four days, and only enlarged on a message from his majesty.

His jealous mistrust of parliamentary eloquence was not suffered to sleep. At a conference with the Lords, on presenting articles of impeachment against the royal favourite, the Duke of Buckingham, Sir Dudley Digges compared him to a blazing star, and Sir John Eliot named him as "that man." The two free speakers were beckoned out, on pretence of a message from the king, and committed to the Tower, Charles avowing the act. Alarmed at this open exer-

cise of tyranny, the House refused to continue their sittings, and suspended all discussion on measures of supply. This attitude of defiance constrained the monarch to yield, and, though the forerunner of measures less capable of justification, entitles the leaders of opposition to the gratitude of their country. The boldness with which the House asserted their indubitable and essential right of freedom of speech, and the personal freedom of the members, and their decision in refusing to proceed on any business till their leaders, Sir John Eliot and Sir Dudley Digges, had been discharged[o], saved the liberties of England. The terrors of fine and imprisonment and Star Chamber punishments would undoubtedly have prevented many members from voting or speaking against the measures of the court, while the more firm and resolute, the Wentworths, Eliots, and other manly spirits, whom no terrors could affright, would, by the exercise of this power, have been withdrawn from the House, and the court might easily have prevailed with the timid herd which were left behind to give the countenance of parliamentary authority to those deadly assaults of prerogative, in which Charles had determined to prevail or perish.

"The very day," writes a modern author,[p] "that Eliot had concluded his harangue with the memorable peroration, 'My lords, I have done, you see the man,' Charles came in his barge from Westminster Hall, with Buckingham by his side, to order Eliot to the Tower. The House of Commons broke up instantly. The next morning, when the speaker reminded them of the business of the day, "Sit down, sit down!" was the general cry, no business till we are righted in our

[o] Hatsell. [p] Forster's Life of Sir John Eliot.

liberties!" In vain did Sir Dudley Carlton, vice chamberlain of the household, reason with the House on what he termed their refractory silence, and declare his opinion, that "the greatest and wisest part of a parliament are those that use the greatest silence, so as not to be opiniative or sullen." They would not be moved from their moody silence, till, after eight days' struggle, Sir John Eliot was released by royal warrant.

But, still untractable, he refused to make an apology for having simply said, "You see the man," though such shocking words had startled the supple courtier Sir Dudley Carlton, as outraging all propriety, "extraordinary terms to use of so high a person, and such as he never heard the like in parliament before." The patriot contented himself with a simple explanation, that he spoke not by the book, but suddenly. "For brevity's sake he used the words 'the man.' He thought it not fit at all times to reiterate his titles, and yet thinketh him not to be a god!" The House ratified his justification, by resolving, "That Sir John Eliot had not exceeded the commission given him by the House, in anything which passed from him in the late conference with the Lords."

A new parliament was called in March, 1627, and proceeded at once to the discussion of public grievances. The solemn, grave, measured, tone of their remarks sounds like the hollow murmur that heralds an approaching storm.

"I read of a custom," said Sir Robert Philips q, "among the old Romans, that once every year they had a solemn feast for their slaves, at which they had liberty without exception to speak what they would, thereby to ease their afflicted minds, which being

finished, they severally returned to their former servitude. I can live, although another, who has no right, be put to live with me; nay, I can live, although I pay excises and impositions more than I do; but to have my liberty, which is the soul of my life, taken from me by power, and to have my body pent up in a gaol, without remedy by law, and to be so adjudged—O improvident ancestors! O unwise forefathers! To be so curious in providing for the quiet possession of our laws and the liberties of parliament, and to neglect our persons and bodies, and to let them lie in prison, and that 'durante bene placito,' remediless! If this be law, why do we talk of liberties? Why do we trouble ourselves with a dispute about law franchises, property of goods, and the like? What may any man call his own, if not the liberty of his person."

"Let us imitate Jacob," said Sir Henry Martin, using the puritanical illustration from Scripture that began to prevail, "who wrestled with the angel, and would not let him go. I would we could wrestle with the king, in duty and love, and not let him go from this parliament till he comply with us." The veteran Sir Edward Coke, added another quaint and forcible illustration from the law: "For a freeman to be tenant at will for his liberty he could never agree to it; it was a tenure that could not be found in all Littleton."

Their prayers were embodied in the famous petition of right, and the king, after enshrouding evasive assent in vague generalities, was at length driven to give, through the clerk, his constitutional answer, *Soit droit fait comme il est désiré.* In their joy, the Commons disregarded precedents, and gave a great shout of applause. As a further practical token of their gratitude, in five days Sir Edward Coke carried up to the Lords a bill for

granting five subsidies to the king, the whole House accompanying him: But the calm proved evanescent. The complaints against tonnage duties and imposts soon burst forth anew with greater violence, as if gaining strength from the temporary calm. To still their displeasure, Charles sent a message through the speaker, couched in the highest strain of prerogative, requiring them "not to enter into or proceed with any new business which may spend greater time, or which may lay any scandal or aspersion upon the state, government, or ministers thereof." Well might they deprecate such a sad message, and exclaim, "If stopped, and stopped in such a manner as we are now enjoined, we must leave to be a council." Sir John Eliot had only proceeded, "It is said also, as if we cast some aspersions on his majesty's ministers: I am confident no minister, how dear soever, can"—when the speaker started up from the chair, and supposing that the bold patriot intended to attack the duke, said, with tears in his eyes, "There is a command laid upon me to interrupt any that should go about to lay an aspersion on the ministers of state." An instant reply was given, and met with unanimous assent, "that every member of the House is free from any undutiful speech from the beginning of the parliament to that day." A vote was carried with acclamation, that the House be turned into a committee "to consider what is fit to be done for the safety of the kingdom, and that no man go out upon pain of being sent to the Tower." Meantime, the speaker, Sir John Finch, requested permission to leave the chair for half an hour, and the House having resolved itself into a grand committee, Mr. Kirton uttered words of ominous import. "The king is as good a prince as ever reigned, it is

the enemies to the commonwealth that have so prevailed with him, therefore let us aim now to discover them, and I doubt not but God will send us hearts, hands, and swords, to cut all his and our enemies' throats." Sir Edward Coke adding, "It is not the king, but the duke (a great cry of assent, 'Tis he, 'tis he,') that saith, 'We require you not to meddle with state government or the ministers thereof.'"

Exception being taken next day to Mr. Kirton's expression, it was resolved "That therein he had said nothing beyond the bounds of duty and allegiance, and that they all concurred with him therein." At length, but ungraciously and by constraint, the king yielded to this fixed determination of discussing grievances, with a range of invective, for which the puritanical notion of Mr. Coriton seems to have been taken as a guide. "I hope we may speak here, as we may speak in heaven, and do our duties, and let not fear divert us." Allusion was again made to the sword by Sir John Elliot who foresaw in this discussion "the beginning of the end." "In some churches it is said, that they did not only stand upright with their bodies, but with their swords drawn, and if cause were, I hope, to defend our prince, country, and religion, we should draw our swords against all opposers."

The final struggle for privilege took place on the 2nd March, 1628, when parliament was on the verge of dissolution; and Sir John Eliot, the undaunted leader of the opposition declared, "I protest, as I am a gentleman, if my fortune be ever again to meet in this honourable assembly, where I now leave, I will begin again." It would have been well had he rested here, but his next step was imprudent, and sunk into

[r] Parliamentary History, vol. ii.

sedition. The speaker having interrupted his passionate harangue on grievances, to announce that he was the bearer of a royal message for adjournment, the passionate orator retorted that it was not the business of the speaker to deliver such a message, that adjournment belonged not to the king but to the House, and read a remonstrance, after the speaker and clerk had refused to read it, which he submitted to the chair, who declined to put it to the vote, saying he had been commanded by the king expressly, when he had delivered his message, to rise: He then, protesting "I do not say I will not, but I dare not," with tears attempted to quit the chair, but was held down by force, till Holles had read a protestation, hastily penned by Eliot, "that whoever introduced innovations in religion, and whoever advised the levy of tonnage and poundage without parliament should be reputed a public enemy." The door being locked, and the black rod refused admittance, the king sent for his guards to force an entrance, but the House, their violence exhausted, dispersed in time to prevent bloodshed, having by this ill advised outbreak of temper exposed their leaders to the royal vengeance.

The king dissolved the parliament, pointing out, in a long printed declaration, how far the members of that House "have swollen beyond the rules of moderation and the modesty of former times, and this under pretence of privilege and freedom of speech, whereby they take liberty to declare against all authority of council and courts, at their pleasure." He committed the ringleaders to the Tower, that they might not be bailed, and requested the opinion of the three chief judges, "Whether a parliament man offending the king criminally or contemptuously in the parliament house

(and not then punished), may not be punished out of parliament."[s] Answer. "We conceive that if a parliament man, exceeding the privilege of parliament, do criminally or contemptuously offend the king in the parliament house (and not there punished), he may be punished out of parliament."

After this erroneous and extra-judicial opinion, an information was filed in the King's Bench against Eliot, Holles, and Valentine, for seditious speeches and tumult in parliament. The defendants demurred, because these offences are supposed to be done in parliament, and ought not to be punished in this court, or in any other, but in parliament, Croke drawing a subtle distinction: "And perhaps not only criminal actions committed in parliament are punishable here, but words also," Sir Robert Heath argued that such speeches, which are here pronounced, prove them not counsellors of state but *Bedlams:* the addition of one word would have made it treason, to wit *proditorie*, and the judges pronounced: "For the punishment, although the offence be great, yet that shall be with a light hand, and shall be in this manner; that every of the defendants shall be imprisoned during the king's pleasure: Sir John Eliot to be imprisoned in the Tower of London, and the other defendants in other prisons." The victim of his patriotic rashness, "the viper" as Charles I. unjustly termed him, lingered four wasting years in close confinement in the Tower and there perished. A few days before his death, Eliot sent for a painter to the Tower,[t] and had his portrait painted exactly as he then appeared, worn out by disease, and with a face of ghastly paleness. This portrait he gave to his son that it might be hung on

[s] State Trials, vol. iv. [t] Forster's Statesmen.

the walls of Port Eliot, near a painting which represent him in vigorous manhood, a perpetual memorial of his hatred of tyranny. His fate was soon most fearfully avenged: the Long Parliament held the overruling of the plea upon the information to the jurisdiction of the court, to have been against the law and privilege of parliament, and with a just and fitting munificence voted £5000 to each of the sufferers. Nor was this all: after an interval of nearly forty years, that the report of this case in Croke might not be considered law, the judgment was brought before the Lords by writ of error and reversed.

The parliament which met in April 1640, assembled in such excellent temper, that one Peard, a lawyer, was compelled to explain, and narrowly escaped being brought to the bar for calling ship-money an abomination, after its legality had been solemnly pronounced. Their successors, the Long Parliament, the same men, but with changed hearts and minds[u], in November, in a very different spirit, began forthwith to complain loudly and angrily of their violated privileges: "The members are to be free from arrest, to have liberty of speech, a legislative, judiciary, and consiliary power, being to the body public as the faculties of the soul to a man. These privileges have been broken!" This formed the *gravamen* of the manifesto with which, intemperate in their patriotism, and inebriate with success, the champions of privilege assumed the characters of their oppressors, and rushed into a civil war.

It is instructive to remark how vigorously the Long Parliament, presbyterians, independents, republicans, root and branch men, one and all bestirred

[u] See Hallam's Constitutional History, vol. ii.

themselves to extirpate freedom of political discussion. Mr. Trelawney was committed to prison and expelled the House, for having said, *in private discourse*[x], that "the House could not appoint a guard without the king's consent, under pain of high treason." For his signal exposure of Strafford's attainder, in which Lord Digby used the memorable sayings, "Let the mark be set on the door where the plague is, and then let him that will enter die—we must not piece up want of legality with matter of convenience;" he was expelled the House, and that very day made a peer by patent, by a very spirited and praiseworthy exercise of the prerogative of the crown. Another member, Mr. Taylor, saying, "that the House had not his consent to pass the Bill of attainder of the Earl of Strafford, for that it was to commit murder with the sword of justice, by a tyrannical resolution of the House," was committed to the Tower, and declared *incapable of ever being a member*. In the heyday of their usurped power, the majority would not tolerate conscientious difference of opinion. Mr. Holles having said "that some propositions were dishonourable, and that the House hath not only entertained them half way, but embraced them," he was suspended the House during that session of parliament, and might congratulate himself on the leniency of the sentence. The future great historian of their triumphant faction, Mr. Hyde, was voted to the Tower by a majority of 169 to 128, for having desired to have liberty to enter his protestation against the printing of the remonstrance. Many other members had protested, and warm debates lasted two days concerning protestations,

[x] Lister's Life of Lord Clarendon.

which might certainly have introduced a dangerous novelty, but ought not to have been so put down. No toleration for the licence inseparable from animated free discussion could be suffered. They would "strike, but not hear." Serjeant Hide, not having moved the committee, of which he was chairman, against a member who said, "the parliament were all rebels," was disabled from serving any longer in the House, and sent to the Tower. The people discovered too late, that if the king had whipped them with rods, their new rulers would scourge them with scorpions, that there are no tyrants so intolerant as a multitude. It will be unnecessary to trace the miserable remnant of a once great parliament through its degradation and abasement. The mutilated House, which had stifled discussion in its exaltation, was compelled to hear bitter truths, and at last to be driven forth with terms of personal contumely and individual insult by a usurper[y]. The despotism of Cromwell crushed with iron heel all free discussion, and, though some sparks of English spirit now and then glanced up, even in the reformed and newly-fashioned House, the debates were but the ashes of its ancient fires. But no sooner had that haughty usurper passed away, than the republican boldness burst forth against his pusillanimous son with almost frenzied violence. Keeping the door closed against the usher of the black rod, Sir Harry Vane denounced the tame tyranny of Richard Cromwell. "Shall we suffer an idiot, without courage, without sense, nay, without ambition, to have dominion in a country of

[y] Dr. Gumble says forcibly in his Life of Monk, "on the 20th of April (it should have been the 1st) they were *jeered* out of the House."

liberty! Richard Cromwell has a sword by his side, but did he ever draw it? Is he fit to get obedience from a mighty nation, who could never make a footman obey him[z]."

At the Restoration all discussion for a time was wreathed of compliment and congratulation. When their fever of loyalty had somewhat abated, and the king's extravagant licentiousness had drained his Commons of their last guinea, the old republican leaven, that liberty of speech which had preceded but disappeared with a commonwealth, was again found to ferment in the assembly. In 1670 the House had disagreed with the resolution of a committee of supply, "that towards the supply every one resorting to any of the play-houses, who sits in the boxes, shall pay one shilling, every one who sits in the pit, sixpence," &c. The majority refused to adopt this puritanical taxation, all the courtiers urging that the players were the king's servants and a part of his pleasure. Sir John Coventry inquired in raillery,—the jest was of the sharpest,—"whether the king's pleasure lay among the men or women-players?" His sarcastic gibe gave such umbrage at court, that, a few evenings afterwards, the unlucky knight was waylaid by a company of persons armed, Sir Thomas Sandys, lieutenant of the Duke of Monmouth's troop, commanding the party, and had his nose slit open. This assassin-like revenge naturally excited a storm of indignation in the House. The quaint style in which the debate is reported, throws a ludicrous air over what might well form a grave and solemn discussion[a].

[z] Forster's Life of Sir H. Vane.

[a] Grey's Debates.

Sir Robert Holt said, with undoubted truth, "It concerns the Lords as well as us. The Lords' noses are as ours are, unless they be of steel." Mr. Hale couched his complaint in strange simplicity of guise: "If a man must thus be assaulted by ruffianly fellows, we must go to bed by sunset like the birds." Sir Winston Churchill having declared that the debate seemed to him a cutting of the king over the face, his words gave offence, and he explained that he said it by way of simile.

The poet Waller redeemed the tone of debate from absurdity. "When the Greeks and Romans had slaves disfigured and marked, it was a dishonour to the master, but that a freeman, an ambassador of the people, should be thus marked, is much more horrible." It was determined that no other business should be proceeded with, till a bill to prevent malicious wounding for the future had passed. By way of set-off, Dr. Arras made an extravagant motion for a bill to be brought in to punish any man that should speak any reflective thing of the king. By some he was called to the bar, but they yielded to his excuse as the only physician in the House, he hoped he should be pardoned—"humanum est errare."

The king's extravagance compelled him to become an importunate suitor, and he heard, in consequence, those home truths from his faithful Commons with which the rich, if overpressed for relief, are wont to edify spendthrift relations. When he asked for further aid in 1675, Lord Cavendish said, "The people have trusted us with their money, and Magna Charta is not to be thrown with their liberties and money into a bottomless pit." Mr. Mallet, another county mem-

ber, spoke with still more old-fashioned plainness of speech: "The parliament in Edward III.'s time had a great kindness for him, yet gave him money with extreme caution, not that they mistrusted him, but a woman called Alice Pierce, whom they mistrusted." The same truth-telling burgess applied an example equally in point to the royal libertine. "King James I. was said to be the Solomon of his age. The king is heir to his virtues; there is something more recorded of Solomon; he fell to strange counsels by strange women: and we cannot repose any confidence in the king, if he puts his counsel in strange women. If they be left, God will bless his counsels."

The House, however, reserved strictly to themselves this licence of tongue in speaking of the sovereign; and would not permit the impudent Titus Oates to declare, when examined at their bar, a constitutional truth, not then openly acknowledged: "The king holds his crown by the same title I hold my liberty." He was reprimanded for his irreverence by the speaker, but refused to retract: "I am sorry I gave offence to the House, in what I said, but it was my conscience, and it was truth, and, though I may not say it here, I will say it elsewhere, and believe it too." Again ordered to withdraw, he narrowly escaped punishment, which, in his case, would have been almost deserved, for speaking the truth once without knowing it. "He has no privilege," said Seymour, "to be saucy to his prince, and uncivil to you;" and Colonel Titus, with difficulty, saved this precious informer, on the ground of his merits; "I am not to be angry with a man for pulling me out of a ditch, though he tear my clothes." On the speaker administering the farther rebuke, "You come not here to expostulate, but to obey the

orders of the House," prudence got the better of his portentous impudence, and he bowed in silence.

Through the whole of the Pensioner Parliament, especially in its latter years, the members seem to have given a liberal interpretation to old Serjeant Maynard's rule, "to speak fully, freely, and fearlessly. When the king opens parliament, what does the speaker first crave? Liberty of speech. The king calls us by writ *Nobiscum consulendum*, and how can treating be without speaking?" But when this latitude of remark affected themselves, they became more tenacious of their own than of their sovereign's dignity, and were exceedingly sharp to punish upon slight provocation. On the introduction of the Test Act, Mr. Goring, one of the court party, having said, with a laugh and satirical nod of the head, "I desire a test from those gentlemen on the other side of the House, that they have no design of creeping into the ministers' places when they are out, and if they will give the House security that they will act better, I will then be on their side," his words gave such dire offence, that he was compelled to explain that he meant no particular person, and to express his sorrow, if he had given the House offence. But even this apology did not satisfy a clamorous minority, though Sir John Talbot remarked, sensibly enough, "We must bear with one another, and not be extreme to mark what is done amiss." The insinuation of interested motives (an opposition must of course be disinterested) was too odious to be lightly forgiven. He was directed to withdraw, and afterwards reprimanded by the speaker in his place. "The House has considered your words, Mr. Goring, and, as they are displeased with your words, so are they pleased with your sub-

mission, and I admonish you to forbear the like for the future."

But, so far from displaying contrition, the petulant debater narrowly escaped censure in the following week for his sarcasms. An opposition orator, Sir George Hungerford, having asserted "The army was pretended to be raised against France, but all the world knows there was no such intention," the courtiers called to write the words down. Scarcely had the clamour subsided, when Goring renewed it, by retorting: "Yesterday there was a grand committee for disbanding the army, but I see now there is need of keeping it up, if these things are said here." A loud cry instantly arose, "To the bar, to the bar!" but as both sides of the House had sinned in violence, the belligerents were allowed to pair off in peace together. One free statement, indeed, the House was compelled to hear in guilty silence, that many of those present had received bribes or pensions, for none could venture to deny its truth. "It is remarkable," writes Marvel, "that, upon occasion of a discourse among the Commons concerning libels and pamphlets, first one member of them stood up, and in the face of their House, said, "That it was affirmed to him by a person that be spoke with, that there were among them thirty, forty, fifty, God knows how many, outlawed." Another thereupon rose and told, "It was reported too, that there were divers of the members papists;" a third, "That a multitude of them were bribed and pensioners." And yet all this was patiently hushed up by their House, and digested, being it seems a thing of that nature which there is no reply to." [b] In the frenzied panic that pervaded the country like a pesti-

[b] Marvel's Growth of Popery.

lence of conspiracies, plots, and popery, the House lost all the restraint usually imposed by decency and good manners. The words "papist" and "rebel" were exchanged between Trelawney and Ash, and a blow struck. The anti-papist declaimers would not have so much as a popish cat to pur or mew about the king.[c] In their eagerness to exclude the Duke of York from the throne, they spurned alike the limitations of law and bounds of decorum. "I hope," said Colonel Titus, "we shall not be wise as the foxes to whom Jupiter gave a stork for a king. To trust expedients with such a king on the throne, would be just as wise as if there were a lion in the lobby and we should vote to let him in and chain him, instead of fastening the door to keep him out." "If the duke be not set aside," cried another, "the government will be." This violence evaporated in declamation: their oratory was let off like an escape of steam in two dissolutions, and the orators, defeated by their own extravagance, put to utter rout. A complete reaction followed: the once merry monarch tyrannized for four years without a parliament, and had almost subsided into a gloomy despot.

The House which met his successor in May, 1685, was so submissive, that James declared "there were not above forty members but such as he himself wished for."[d] As the last parliament of Charles resembled a Polish diet, the present seemed rather to be composed of feudal serfs. When they gathered courage in November to remonstrate against the employment of officers in the army not qualified by law, they were rebuked by the sovereign in terms of menace: "I did not expect such an address, having given you warning

[c] Echard's History of England, vol. ii.

[d] James's Memoirs by Clarke.

of fears and jealousies among ourselves. I had reason to hope that the character God hath blessed me with in the world, would have created and confirmed a greater confidence in you of me, and of all that I say to you. But, however you proceed on your part, I will be steady in all my promises I have made to you, and be very just to my word in this and all my other speeches." This answer to their address was read with all reverence, and profound silence prevailed in the House for some time. When Mr. Wharton moved that a day might be appointed to consider of his answer, Mr. Coke stood up and supported the motion, "I hope we are all Englishmen, and are not to be frightened out of our duty by a few high words." There was a blank pause—

> "His zeal
> None seconded, as out of season judged,
> Or singular or rash."—MILTON.

Lord Preston at length took exception to this honest sentiment, and, though he asked pardon, it was resolved, "that Mr. John Coke, for his indecent and undutiful reflection on the king and this House, be committed to the Tower."

The servile spiritless members, fortunately for the liberties of their country, were dismissed by a prorogation two days afterwards, and never met again. They had set a mark on themselves—a badge of sycophancy, stamped in too legible characters to be summoned to the convention; and would only have sullied by their alloy that judicious band of patriots, who confirmed to this country in the bill of rights her civil and religious freedom. The great clause of that memorable Major Charta declared[e] that "the

[e] Bill of Rights, s. 5.

freedom of speech and debates or proceedings in parliament ought not to be impeached or questioned in any court or place out of parliament." Having established this safeguard of political discussion, the members of the Lower House lost no time in making a practical application of their liberty. Far from bowing down to the golden image which their hands had set up, they criticised the Prince of Orange as a monarch of their own creation, and both addressed him, and spoke of him among themselves with as little deference as if he had been the president of a republic. The parliamentary, as contradistinguished from an hereditary king, obtained only curt and sullen homage; very different from the deferential mention formerly made of the Plantagenet, or Tudor, or Stuart.. The addresses of former Commons, even to Charles II., would seem, by comparison, prostrate adulation. The tone of independence which ensued, though carried in several instances to excess, had a constitutional tendency, and diffused a healthy spirit of freedom through the nation. The coronation of the Prince of Orange had taken the country by surprise; his gloomy manners made him personally unpopular; his dissenting tenets excited the jealous aversion of the church; and, as he was constrained immediately to plunge into wars, of which the glory seemed far more uncertain than the cost, the voice of murmurings and distrust against the conqueror of the Boyne began to be quickly heard. When ministers insisted on the necessity of further aid to save the nation from falling into the hands of the Irish and French, a member exclaimed, "Add the Dutch.[f]" In opposing the bill for raising moneys

[f] Ralph's History.

for the civil list, Sir Charles Sedley said[g], "His majesty is encompassed with, his majesty sees nothing but coaches and six horses, and great titles, and, therefore, cannot imagine the want and misery of the rest of his subjects. It's a general scandal, that a government so sick at heart as ours should look so well in the face. . . He is a brave and generous prince, but he is a young king, encompassed and hemmed in by a company of crafty old courtiers, to say no more." With truth, might his sovereign have retorted on the discontented orator, that he had been long known as a witty and polite courtier but was a very juvenile patriot.

In a debate on grievances, 1689, Sir William L. Gower observed[h], "I am for taking out all the deer in this king's park that were in King James' park; let none but a protestant breed of deer be left." Sir Duncombe Colchester retorted, "If you turn out the deer it will do you no good unless you turn out the keeper too." Some exclaimed, "Does he mean the king?" He probably reflected on the Marquis of Carmarthen; but the metaphor was ambiguous, and admitted of that construction. The humble representation of the Commons to the king, on his refusing to pass the Place Bill, is distinguished by a vehemence of tone which would have been seditious if expressed elsewhere.

"Your Commons cannot, without great grief of heart, reflect that, since your majesty's accession to the crown, several public bills, made by advice of both houses of parliament, have not obtained the royal assent, and, in particular, a bill intituled 'An act touching free and impartial proceedings in parliament,'

[g] Sedley's Works. [h] Parliamentary History, vol. v.

which was made to redress a grievance, and take off a scandal relating to the proceedings of your Commons in parliament, after they had freely voted great supplies for the public occasions, which they can impute to no other cause than your majesty's being unacquainted with the constitutions of parliament, and the insinuations of particular persons, who take upon them, for their own particular ends, to advise your majesty contrary to the advice of parliament, and therefore cannot look upon them but as enemies to your majesty and your government. They do therefore humbly pray that, for the future, you will be graciously pleased to hearken to the advice of your parliament, and not to the secret advice of particular persons, who may have private interests of their own, separate from the true interest of your majesty and your people." The king returned a civil but evasive answer, and, though some turbulent spirits wished to press for a further reply, the good sense of the majority overruled their petulant importunity.

The same session, in 1694, the factious John How concluded some bitter reflections on the administration of affairs with a quotation levelled personally at the king. "Egone, qui Tarquinium regem non tulerim, Sicinium feram?"[1] and then moved that the House might go into committee on the state of the nation. No notice was taken at the moment of this unpardonable licence, and when Mr. Montague, after another member had seconded How's motion, interposed to desire his words might be written down, Sir Charles Musgrave took an objection, in point of form, that his animadversion came too late, such an interval of time having been suffered to elapse. The House adopted

[1] Hatsell.

this opinion, and it has since become an established rule, that any words objected to must be noticed at the time or at the close of the speech, that the very words used may be written down, and an opportunity for explanation given. In their national peevishness at the darkening prospect of a diminished revenue, increased taxation, and profuse expenditure, the country gentlemen seemed to forget that

"There's a divinity doth hedge a king,"

and took strange liberties with the sacred name of royalty. Mr. Ettrick remonstrated on the parsimony "of keeping the king, as it were, on board wages,"[k] without rebuke; and on the chancellor of the exchequer, Mr. Smith, in a phrase singularly injudicious, observing, "that the king was in a *starving* condition," Mr. Granville repeated the word with malicious irony; "If the king were *starving*, why then were such grants made of crown lands? if the king was really *starving*, why were such great pensions lavished? why were foreigners enriched and made lords?"[k]

The dislike of the king's nation was made a watch-word and rallying cry of faction. The debate on the Dutch guards was inflamed with invectives against foreigners. "You will easily judge," writes the king to Lord Galway, on whom this reflects. When the death of the Duke of Gloucester made a further settlement of the succession of the crown necessary, and the House of Hanover began to be generally mentioned, the opposition urged, "What! must we have more foreigners?"[l] "which" secretary Vernon observes, with his ordinary matter-of-fact simplicity, "is not very obliging to the king." But this jealousy of the Hollander reached its height, when Sir John Knight

[k] Vernon's Letters. [l] Hardwicke Papers.

opposed the Naturalization Bill, in a speech steeped with bitter prejudice, but applauded to the echo. "I have heard of a ship in a violent storm, in danger of perishing every moment; when the good commander seeing the danger and apprehending death, desired his crew to assist with resolution, and preserve themselves and the ship, which the sailors refusing to do, he retired to his cabin, humbled himself in prayer, and implored the Power that alone can save in time of need, that though the ship and company might be justly swallowed up for the disobedience of the sailors, yet that he and his cabin might suffer no damage. Sir, I cannot as that good commander did, be so vain, as to hope that either myself or the place for which I serve can be preserved from the general inundation which this bill, which we are now debating, lets in on the liberties of my native country and countrymen, and therefore be unconcerned for the good of England, provided Bristol were safe. But if I debate not on them, with that advantage and reason as our land admirals can, no doubt with great ingenuity, on sea politics, I hope the House will pardon me, for my observations never cost the kingdom such expense of money at home and losses at sea, as hath the experience of those honourable persons in sea affairs. Can any man hope to persuade me that our forefathers would have brought foreign soldiers into England, and pay them, and naturalize them likewise; and at the same time send the English soldiers abroad to fight in a strange land without their pay! Let us abate our taxes, and, after the wise precedent of our fathers, pay our own seamen and soldiers at home, and send the foreigners back.

"Our palates for a long time have been so nice, that nothing but a French cook could please them, nor could we persuade ourselves that our clothing was

good, unless from head to foot we were *à la mode de France.* The gentleman was not well served without a Frenchman, and the lady's commode could not sit right, if her fine French woman did not put it on; now on a sudden, the change is as violent in favour of the Dutch, who are great courtiers and the only taking people, and our English are a sort of clumsy-fisted people, if compared with the modish Dutch Hans and Frow, and in short, the Englishmen are fit for nothing but to be sent to Flanders, and there either to fight, steal, or starve for want of pay. There is one thing, Mr. Speaker, which comes into my mind, with which I shall close this consideration: what reason was there for blaming the mayors, aldermen, common-council, and other governors of corporations, for surrendering their charters, and at the same time hope to justify our proceedings, though they throw up the great charter of our English liberties to admit strangers? Upon the whole, Sir, it is my judgment that, should this bill pass, it will bring as great afflictions on this nation as ever fell upon the Egyptians, and one of their plagues we have at this time very severe upon us. I mean that of their land bringing forth frogs in abundance, even the chambers of their kings, for there is no entering the courts of St. James's and Whitehall, the palaces of our hereditary kings, for the great noise and croaking of the frog-landers. I will conclude all with this motion, 'That the serjeant be commanded to open the doors, and let us first kick this bill out of the House, and then foreigners out of the kingdom.'"

As these keen-barbed reflections of Mr. Knight's on the king argued factious boldness, the published speech was committed to the flames, and the speaker only escaped imprisonment by denying the authenticity of the report. A better example of patriotic

licence was afforded by Mr. Price, in opposing the grants of the revenues of Wales to the Earl of Portland. Exposing the unconstitutional extravagance of the royal bounty, this stout-hearted Cambrian asserted, that it was contrary to the Bill of Rights, and attributed the king's munificence to his being imposed upon. "It cannot be pretended that he shall know our laws (who is a stranger to us, and we to him), no more than we know his counsellors, which I wish we did." The House unanimously adopted the public-spirited address of the truth-telling lawyer, and William was compelled to recall his grant to a grasping favourite.

A remarkable instance was afforded in 1701 of the facility with which popular assemblies are apt to be carried away by a bold remark uttered at the right season.[m] Ministers had calculated on the unanimous concurrence of the House in an address to own the King of Spain, but Mr. Monckton opposed it warmly, and said, "if that vote past, he expected the next would be, for owning the pretended Prince of Wales." The House seemed suddenly struck with the truth of his observation, and sent up an amended address to the king to enter into new alliances with the States. His own surreptitious partition treaty exposed the monarch to severe animadversion. Sir James Bolles, a half-crazed knight, compared this division of another man's kingdom to robbing on the highway,[n] and How rejoicing in the idea, called the treaty felonious. Though in general too phlegmatic and careless of censure, the king was so highly nettled as to declare "that, if the disparity of their condition had not restrained him, he would have compelled satisfaction."

[m] Lord Mahon's History. [n] M'Pherson.

The Upper House scarcely fared better than the sovereign in the angry discussions which, with scarcely the interval of a single session, raged between them; an active tory opposition leading the debates in one House, and a steady whig majority overruling them in the other. The free council of parliament, which could take such liberties with the king, were not likely to pay more respect to an obnoxious peer. This strife of tongues beat with most violence against Lord Somers, the best and ablest of their foes, and scrupled not to assail him with charges of socinianism and corruption.[o] On Captain Kidd, whom the chancellor had commissioned to clear the sea of pirates, turning pirate himself,[p] Mr. Moore said, "that Kidd plundered with a commission under the Broad Seal in his pocket, and was encouraged to it by those in partnership with him, who had obtained a grant of all he should steal." How asked what would become of this nation, if those in authority were not content to plunder themselves, by grants of all that could be got here, but likewise sent out their thieves to rifle whatever was to be met with elsewhere?

The latitude which they took in speaking of the Upper House, the Commons would not give. When they selected several noblemen for impeachment, on account of their privity to the Partition Treaty, omitting others equally implicated, Lord Haversham commented on their inconsistency. "Give me leave to say, though I am not to argue it, it is a plain demonstration, that the Commons think these lords innocent; and I think the proposition is undeniable, for there are several lords in the same crimes, in the same facts: there is no distinction. And the Commons

[o] Dr. Drake's Report. [p] Vernon's Letters.

leave some of these men at the head of affairs, near the king's person, to do any mischief, if they were inclined to do it, and impeach others, when they are both alike guilty and concerned in the same facts. This is a thing I was in hopes I should never have heard asserted, when the beginning of it was from the House of Commons." The managers of the conference instantly withdrew, indignant at so great an aspersion on the honour of the House, perhaps more indignant from its truth. The House resolved "that John Lord Haversham hath, at the free conference this day, uttered most scandalous reproaches and false expressions, highly reflecting upon the honour and justice of the House of Commons, and tending to the making a breach in the good correspondence between the lords and commons, and to the interrupting the public justice of the nation, by delaying the proceedings on impeachments. That John Lord Haversham be charged before the lords for the words spoken by the said lord this day at the free conference, and that the lords be desired to proceed to judgment against the said Lord Haversham, and to inflict such punishment upon the said lord as so high an offence against the House of Commons does deserve[q]."

They also refused to renew the conference till they had received reparation for the indignity offered. Vainly denouncing the lords' "very many irregular and unparliamentary proceedings," and refusing to appear at the trial, they solemnly protested against the acquittal, as repugnant to the rules of justice, and therefore null and void. Very brave words, undoubtedly, but insufficient to change the nature of the dispute, or conceal their own partial and extravagant

[q] Parliamentary History, vol. v.

injustice. Annoyed beyond measure at the defeat of their favourite panacea for removing dissent, the bill to prevent occasional conformity, the high church tories inveighed against the bishops, and one of their leaders[r] declared he should be provoked to move for leave to bring in a bill "for the toleration of episcopacy; for since the prelates were of the same principles as the dissenters, it was but just that they should stand on the same footing."

Sharpness of tone and licence of invective must be conceded to the grand inquest of the nation, or Sir Henry Capel's complaint would be just:—"If we have nothing to do here but to give money, is it a parliament, or a senate of New Rome, to set rates upon fruits and chesnuts?" A full measure of licence, and running over, was accordingly given to declamations against an unpopular king or an odious ministry, to the denunciations of an apostate peer or low church bishop; but if some hardy member withstood a factious resolution of the majority, or opposed their own sweet voices, he discovered that this privilege was but a phantom with regard to his own protection. Manley, a tory member, having cautioned the House to beware of passing Sir J. Fenwick's attainder, adding, "it would not be the first time that people have repented their making their court to the government, at the hazard of the liberties of the people,"—for these words, which can scarcely be termed unguarded, was immediately voted to the Tower.

This arbitrary act marked the heyday of whiggery. What was done in the green tree was attempted in the dry. When Hampden used the freedom of remarking, in the tory parliament of 1712, that, "between a

[r] Sir J. Packington.

lazy campaign and a trifling negotiation, they were amused by ministers at home, and tricked by enemies abroad," the leader of the House, St. John, retorted, "that it was a reflection on the queen, that persons had been sent to the Tower for less, but that some members who were ambitious of that honour should be disappointed." The menace, though spoken in a moment of passion, seems, in the very imagination, utterly subversive of all free debate. The House, as a body ever instant to notice and punish the slightest disrespect to themselves, could not tolerate criticism. In their eager disputes upon resuming the prodigal grants by King William of the forfeited estates in Ireland, the chancellor of the exchequer, retaining office against an adverse majority of the opposition, narrowly escaped with a resolution of censure for making a true, and scarcely rash remark.

When Sir J. Pakington opposed the Union, comparing it to the marrying a woman against her will, and asserting that it was carried on by corruption and bribery within doors, by force and violence without, the treasury bench exclaimed loudly for apology. He excused himself by a double hearsay: "He was told, Emery said in Scotland the Union was so carried."

The member for the University of Oxford, Sir Wm. Whitelocke, eluded punishment by a more ingenious explanation.[8] Opposing some clause in the Bill of Settlement, he committed himself by the rash remark—"Should the Elector of Hanover succeed to the throne, which I hope he never will—" The conclusion of his sentence was drowned in shouts of "To the bar! to the bar!" But he recovered his presence of mind in the clamour, and refused to apo-

[8] Somerville's Queen Anne.

logise. "The queen is younger in years than the elector, and I merely expressed a loyal hope that she might survive him." His words admitted of this explanation, and those of the opposite faction, who knew his meaning better, applauded his ingenuity. The union with Scotland, uprooting such deep prejudices, caused many angry reflections to be cast on the nation and body, especially as the forty-five used to vote together, and the proud and sensitive strangers were but too ready to resent them[t].

The sliding-scale, by which offensive phrases and indiscretions of speech appear to have been weighed, was the prevailing opinion of the majority. In the parliament of 1713, comprising a large number, if not a preponderance, of jacobites, Sir William Whitelocke was allowed to predicate the speedy return of the pretender without rebuke. General Stanhope having moved an address to the queen, to use her most pressing instances with the Duke of Lorraine to remove the young Charles Stuart out of his territories, the member for the University of Oxford objected that the like address was formerly made to the protector for chasing Charles Stuart out of France; notwithstanding which, that prince was some time after restored to his father's throne.

But, however capricious or partial in noticing any undue liberties of speech themselves, the House evinced an unanimous feeling of jealousy and alarm

[t] The following is a specimen of the scurrility to which even courtiers would stoop:—"Sir Edward Seymour compared the Union to a countryman that had a wife proposed to him without a fortune, and gave this reason for refusing the match,—that 'if he married a beggar, he should have (*absit invidia verbo*) a louse for his portion.'" *Vernon's Letters.*

at the slightest attempt to control its exercise beyond their walls. When Colonel Churchill complained of receiving a summons to attend the Board of Admiralty, the night before, stating, "When I was called in, the Lords accused me of what I said here, that some persons in the fleet were cowards. I know not that I am to answer anywhere for what I say here but to the House," the assembled Commons were instantly in a flame, Mr. Foley and others asserting, most justly, that there was an end of privilege, "if officers many of whom had seats, were to be called to account for what might be said or done there." It appeared on inquiry, that Colonel Churchill had used these words elsewhere, and a satisfactory explanation was given, that a man in the fleet had been condemned to be shot as a coward; that the king had been petitioned for pardon; and that the board wished to ascertain from Colonel Churchill whether he were a fit subject for pardon. A resolution proposed by Sir Charles Musgrave, "That no member be examined for what he has said here," was negatived on the judicious objection of Colonel Titus. "Do you think that this is a new privilege? This is calling that in question that was ever out of question!"—and the House allowed the subject to drop, having vindicated the privilege beyond cavil, with a rebuke from the speaker to the Board of Admiralty, inculcating more caution for the future. "It had been civil and reasonable for the board to inform Churchill they had no intent to interrogate him as to any thing said in the House."

On the accession of Queen Anne, so high an homage was paid to royalty as to be inconsistent with freedom of debate. The whigs, howbeit unused to bend the knee at court, when they found themselves

the only courtiers admitted within the threshold of the palace, stooped to the very ground. When an obnoxious tory, Mr. Charles Cæsar, ventured a remark, the chief libel in which lay in its truth, the words were written down. We read in the journals, "That an engrossed bill from the Lords, entitled 'An Act for the better Security of Her Majesty's Person and Government, and of the Succession to the Crown of England in the Protestant Line,' was read a second time, and Charles Cæsar, Esq., upon the debate of the said bill, standing up in his place, and saying the words following (which were directed by the House to be set down in writing at the table):—'There is a noble lord, without whose advice the queen does nothing, who, in the late reign, was known to keep a constant correspondence with the court at St. Germains:' and the said Mr. Cæsar, endeavouring to excuse himself, and being called upon to withdraw, and he being withdrawn accordingly, and a debate arising thereupon, the House resolved 'That the said words are highly dishonourable to her majesty's person and government, and that the said Charles Cæsar, Esq., should for his said offence be committed prisoner to the Tower.'"

The tide of party passions never ran in a stronger current than during the reigns of William and Anne, and in all punishments, to the bar or the Tower, regard was had more to the unpopularity of the speaker than to the speech itself. Had this been the measure invariably meted out, the privilege of speech in parliament would have been limited by the condition of saying nothing distasteful to the court or ministry. The complaint was well urged by a tory county member, smarting under a sense of unfair

treatment, and determined at all hazards to unbosom his suppressed vexation.

"Mr. Speaker, I did not intend to have troubled you this session, and I believe it will be to little purpose now; for, if a gentleman stands up to complain of grievances, although this House meets in order to redress them, he is represented as a person that obstructs her majesty's business; if he finds fault with the ministry, he is said to reflect upon the queen; if he speaks against the continuance of the war to prevent the beggary of the nation, to prevent the moneyed and military men becoming lords of us who have the lands, then he is to be no object of her majesty's favour and encouragement. This, Sir, is the pass we are brought to, and this is the freedom of speech you were pleased to ask for at the opening of this session, and which of right belongs to every member of this House. I remember the time when such restraints as these would not have been suffered or endured, but we are under arbitrary ministerial power."

No sooner had the country gentlemen changed sides, than they became in turn equally clamorous for the serjeant, equally anxious to incarcerate the hostile parties, who would use their liberty as a cloak for licentiousness. The immediate effects of the accession of George I. were rather to curtail than enlarge liberty of speech. The whigs would fain have crushed their opponents without permitting a single cry or murmur, too impatient and vindictive to give their adversaries a fair hearing, or any hearing at all. On the 5th of April, 1715, a fortnight after the House had met, a motion was made to take into consideration his majesty's royal proclamation of the 15th of January for the calling

of a new parliament. The new monarch having been made to express his conviction "that his loving people would send up to parliament the fittest persons to redress the present disorders, and therein have a particular regard to such as showed a firmness to the protestant succession when it was most in danger," Sir William Wyndham complained of this proclamation, as "not only unprecedented and unwarrantable, but even of dangerous consequence to the very being of parliaments." When called upon to justify his charge, he declined giving any particular explanation, but repeated, that "as he thought some expressions in the proclamation of dangerous consequence, so he believed every member was free to speak his thoughts." In this belief the opposition orator found himself wholly mistaken. Mr. Walpole, himself fresh from the Tower, could with difficulty ward off the same unjust punishment for uttering unwelcome truths, a rampant majority being determined to fix some mark of their displeasure upon the eloquent champion of a fallen race, a jacobite professed.

It was moved "that Sir William Wyndham, having reflected upon his majesty's proclamation, and having refused to justify his charge, although often called upon so to do, is guilty of a great indignity to his majesty and a breach of the privileges of this House."[a] It was decided, after three divisions, 212 against 138, that he be reprimanded in his place. The speaker, Sir S. Compton, acquainted him with the resolution, sitting in the chair covered, and Sir William standing up uncovered. "Sir, the arraigning a proclamation issued by his majesty for calling the present parliament, and refusing to assign any cause why such proclamation is blameable, the House

[a] Parliamentary History, vol. vii.

thought an indignity to his majesty, and so unwarrantable an use of that freedom of speech which is the undoubted privilege of parliament, that the House thought they could not let it pass without animadversion; but being willing their moderation should appear, notwithstanding their levity has been too much despised and contemned, they have inflicted the mildest censure your offence was capable of, and have commanded me to reprimand you in your place, and, in obedience to their command, I do reprimand you accordingly."

Whereupon Sir William Wyndham said: "Mr. Speaker, I very truly return my thanks to you for performing that duty which is incumbent upon you, from your office, in so candid and gentlemanlike a manner. As I am a member, I know I must acquiesce in the determination of the House; but, as I am not conscious to myself of having offered any indignity to his majesty, or of having been guilty of any breach of the privilege of the House, I have no thanks to return to those gentlemen, who, under a pretence of lenity, have brought me under this censure."

A still more odious exercise of outstretching tyranny was displayed in 1717, against the leader of the forlorn hope, Mr. Shippen. That plain-spoken, honest jacobite had put his glove to his mouth, according to his wonted bad habit,[w] and said, "the propositions in the king's speech seemed rather calculated for the meridian of Germany than Great Britain," adding drily, "it is the only infelicity of his majesty's reign, that he is unacquainted with our language and constitution." He was tumultuously voted to the Tower, and, by a mean exercise of vindictiveness, ministers caused parliament to be adjourned, instead of pro-

[w] Speaker Onslow.

rogued, that he might not be released at the rising of the House. He was too stout-hearted to petition for this release, and came out of prison, after many months' confinement, with a fixed resolution to speak his sentiments as plainly as before. He even drolled upon his doom, advocating, with all his economy, an article, then first added to the estimates, of £200 a year for the physician of the Tower. "Members" he said, "have been frequently sent there for speaking freely, others for acting corruptly. Now, as it is uncertain of what denomination the member may be, who shall next be committed to that state prison, let us not grudge so trifling a sum for so charitable a purpose." [x]

Of his determination to speak out, be the consequence what it might, old Mr. Shippen gave another instance in the next reign. "His majesty knows how much the nation is loaded with debts and taxes, and how inconsistent it is with our constitution to keep up a standing army in time of peace." Threats of his former punishment being instantly made, the opposition leader quietly observed, "that he was peculiarly unfortunate, for that in a former parliament he had incurred the severe censure of the House for asserting that the late monarch was unacquainted with the constitution, and he now gave high offence, asserting that his present majesty was not unacquainted with the constitution." [y] The orator's witty antithesis saved him from further molestation. Probably the House had grown ashamed of their former capricious tyranny. The speaker's call to order was deemed a sufficient substitute for the serjeant's mace; as the season for extraordinary excitement passed away, the forbearance to punish was met by a similar good spirit of

[x] Parliamentary History, vol. viii. [y] Bell's History of England.

self-command; and, during the long reign of George II., members continued to speak with measured licence, liable to censure, and occasionally incurring the rebuke of their dictatorial head, but inapprehensive of commitment. "It was reserved," to quote the judicious observation of Mr. Hatsell,[z] "for a more enlightened age, and for times when the true spirit of liberty should be better understood, to ascertain and establish this privilege to its utmost extent, consistently with the language of good breeding and the behaviour of men of liberal education."

Liberty of speech, indeed, is so essential to the very existence of a free council, that, though it always made a part of the liberties of the House of Commons, it was never so well understood or acted upon, as in modern days of increased intelligence and improved constitutional knowledge. The principle is now firmly fixed, on a foundation never to be shaken, that no words spoken within the walls of St. Stephen's, however strong, searching, and personal, can be inquired of in courts of law, or taken criminal cognizance of, in any manner whatsoever, except by the House itself. Words which would be treasonable, or seditious, or libellous, if uttered beyond those sacred precincts, may be spoken there with the most perfect impunity from without: the character and conduct of every subject in the empire may be discussed with the most entire unreserve, and comments made for which, though the member must have defended them at the sword's point, if ventured elsewhere, he is not held amenable by the code of honour. The king's name, indeed, must not be directly mentioned, lest the mention of it should exert an undue influence over the freedom of debate, nor will any disparagement of the

[z] Hatsell, Precedents, title Privilege.

House of Lords, as a body, be permitted, that a good understanding may prevail between the two branches of the legislature.[a] But, subject to this reservation, the royal pleasure may be glanced at, through his responsible advisers, with all the liberty of satire, and an obnoxious peer assailed in the fullest Saxon characters of contumely and invective. The only true safeguard against this unconfined range of speech consists in the good feeling of the House, and the firmness of the speaker interposing, whenever the offence may require his interposition, to restrain the petulant declaimer within that rule which cannot be too often inculcated, "the language of good breeding and the behaviour of men of education."

[a] Woodesson's Lectures.

CHAPTER IX.

THE speaker's petition for privilege from arrest dates from a later period than that for liberty of speech, but it is supposed to have been included in the general prayer made by Sir John Cheney, 1st Henry IV., "that the Commons might enjoy their ancient liberties and privileges."[a]

It is an essential part of the constitution of every court of judicature, that persons resorting to it should be entitled to certain privileges, to secure them from molestation during their attendance, and more peculiarly essential to the court of parliament, the first and highest court in the kingdom, that its constituent members should not be prevented by trifling interruptions from their attendance on important public duties, but should, for a certain time, be excused from obeying any other call, and be protected in their postponement of private obligations to the service of the state. The privilege may not unfrequently save electors from being virtually unrepresented,[b] and it secures to all that freedom from personal restraint, without which there would neither be dignity in the collective body, nor independence in the individual. This exemption from arrest

[a] Hakewell's Modus tenendi Parliamentum.
[b] Speech of C. W. Wynn.

has never been extended to such criminal proceedings as involved treason, felony, or breach of the peace. Before the existence of the journals, we are told of one Fearne, a paltry member, being committed to the Marshalsea, for *pickery* (i.e., picking pockets), without any notice to the House.[c] However disposed their hands might be supposed to be to picking and stealing on a larger scale, and to levying contributions from the public purse, they must have felt ashamed of such a petty-larceny rogue, and been anxious that his removal should take place *sub silentio*. Since the passing of the Habeas Corpus Act, it has been the invariable usage of government to give notice to the speaker, by letter, of the particular state offence for which they may have arrested any member.

The gradual extension and encroaching advance of this privilege to all civil process, forms a curious chapter of constitutional history. Mr. Hatsell, after a searching inquiry, has come to the conclusion, that the claim in the time of Edward IV. comprehended only arrests for trespass, debt, &c., on mesne process; that, against such arrests, the law gave a remedy of a writ of parliament, which released the person of the debtor, and did not affect the rights of the creditor. For an arrest on a judgment, there was at that early period no other redress than a special act of parliament. The first precedent is in King Edward I. days, when, we learn, [d] "the Templars had certain tenants in the Parliament House, which were behind with their rents, and they made humble petition to the king, That they might distrain either their bodies or their goods for the same. The king positively refused,

[c] Parliaments and Councils of England.

[d] Townsend's Proceedings in Parliament.

Non videtur honestum quod aliquis de magno Parliamento distringatur."

The case of Speaker Thorpe's arrest may be passed over as a precedent of no authority "begotten by the iniquity of the times." Till the instance of George Ferrers, A.D. 1543, when a member had been imprisoned, the House never delivered him out of custody by their own authority, but referred him to that writ of privilege, to which he was entitled at common law.[e]

But when Ferrers, a burgess in the household of Henry VIII., was arrested, the serjeant was sent forthwith to the Counter prison, and came back with a report, that the officers of the city, after many stout words, forcibly resisted him, and in the brawl broke off the crown of his mace. The Commons declined the writ which the chancellor offered, and decided that the serjeant might deliver by shew of his mace, without writ, the mace being a sufficient warrant. The sheriffs, having been summoned, and having contumeliously refused to surrender Ferrers, were committed to the Tower, and the clerk of the Counter to a place there called Little Ease. This occurred in the 34th year of Henry VIII. who studiously cultivated the good-will of his faithful commons. The king harangued the chancellor and speaker, that the member should have his privilege. "For I understand that you, not only for yourselves, but also for your necessary servants, even to your cooks and housekeepers, enjoy the privilege, insomuch, as my lord chancellor hath informed us, that he, being speaker of the parliament, the cook of the Temple was arrested in London, and, as he served the speaker in that office during the par-

[e] Elsynge

liament, was taken out of execution by the privilege of parliament."

Ferrers had been surety for one Weldon, and, at the king's recommendation, an act was passed to revive the debt against Weldon and to acquit Ferrers. The creditor who procured the arrest was committed for his contempt. It is suspected that the privilege thus insisted on, and exercised to as great an extent in this first instance as the House has ever since been admitted to exercise it, may be ascribed rather to the circumstance of Ferrers being a servant of the king than a member of parliament.

The fence of common law once broken down, the Commons went merrily forward in their aggressive path of privilege, and proceeded to abate an arrest in execution with as little ceremony as country justices put down a common nuisance. In February, 1558, there was an inquiry into a complaint, that John Smith, returned burgess for Camelford, had come to the House, being outlawed, and had deceived divers merchants in London, taking wares of them to the sum of £300, minding to defraud them of the same under colour of privilege. The complaint was reported to be true, and the House divided that he should be allowed his privilege: Ayes 112, Noes 107. Prynne says: "How honourable this vote was for the House in the case of such a cheating member, carried only by five votes, is not fit for me to determine."

The burgesses who could venture so far under Elizabeth were not to be deterred from still farther encroachments by the blustering pusillanimity of her successor. Sir Thomas Shirley had been committed prisoner to the Fleet soon after his return, and before parliament met, *on an execution*, and complained to the

House, March 1603.[f] The warden refused to deliver the prisoner to the serjeant, and, persisting in his refusal, when Shirley was sent for by the House, he was committed to the Tower. His friends urged the extreme hardship, as they could not secure the warden from an action for an escape. The Recorder of London moved that six members might be sent to the Fleet with the serjeant and his mace, and there require the delivery of Sir Thomas Shirley; if it was denied them, to press to his chamber, and, providing for the safety of the prison and prisoners, to free him by force and bring him away with them to the House. This strange legal advice to act with a vigour beyond the law was carried by 176 against 153. But, the speaker reminding the House, that all sent to enter the prison in that manner would be subject to an action on the case, they relinquished the project of a forcible rescue.

Many schemes were discussed in the House several days together for the delivery of the prisoner, all to no purpose; at last the warden was sent for again, and still obstinately refusing to deliver Sir Thomas, was informed by the speaker "that as he did increase his contempt, so the House thought fit to increase his punishment, and that he should be committed to the prison called Little Ease in the Tower." One night's lodging in the miserable dungeon worked a marvellous change in the obdurate gaoler. The lieutenant of the Tower informed the House next day that the warden relented, and would deliver up his prisoner to the serjeant, if the House would send two of their members, whom he named, to satisfy him in the point of his security. The House refused, for they knew the power of Little Ease, and sent another warrant of

[f] Crompton on the Jurisdiction of Courts.

Habeas Corpus to be served on the warden to release their member. The forms of these warrants are entered in the journals, but there is an amusing private memorandum annexed: "That Mr. Vice-Chamberlain was privately instructed to go to the king, and humbly desire, that he would be pleased to command the warden, on his allegiance, to deliver up Sir Thomas, not as petitioned for by the House, but as if himself thought it fit, out of his own gracious judgment."

This last method probably prevailed, for, by a petition from the warden, we find Sir Thomas had been given up. The House thought fit to keep the offender in the same dismal hole some time longer; when at last they brought him to the bar on his knees, he confessed his error and presumption, and the speaker discharged him, paying the ordinary fees. Two peculiar difficulties attending the release—that the warden would have been liable to an action of escape, and the creditor have lost his right to an execution,—were removed by a general law, 1 James I., to excuse the debt, and save harmless the keepers of prisons.

From this time, all persons who ventured on arresting a parliament man for debt, either in ignorance, or wilful hardihood, were consigned to the custody of the serjeant. In 1606, we read of a complaint that Mr. James, a burgess, had been arrested on an execution. The attorney who procured the arrest, and the officer who arrested Mr. James, were the next day brought to the bar, and for this contempt committed to the serjeant's custody for one entire month; the first instance recorded in the journals, but speedily multiplied, of delinquents being handed over to the custody of the serjeant, by way of punishment. The period of protection that environed a member's person being

indefinite, Sir Edward Coke, in 1621, by an excess of privilege, as great as any that the Stuarts ever usurped of prerogative, carried a motion, that "all members should be free from arrest by their creditors, during an adjournment of five months." The precedent met with such approval in Ireland, that the members there enjoyed protection over a recess of two years, and as their parliaments, till the middle of the 18th century, were only dissolved on the death of the reigning sovereign, luxuriated in a complete immunity from troublesome debtors.

None, of course, proved themselves hardy enough to dispute the summary power of the Long Parliament during the saturnalia which marked the close of the reign of Charles and the Commonwealth; but after the Restoration it was braved in a strange manner by one Maurice Thompson, who, being ordered into custody for arresting a member, barred his house, and kept the serjeant-at-arms at bay. He could not prevail, till armed with a warrant from the speaker to break open the door, and to call in the aid of the sheriffs of Middlesex to enforce obedience. Excepting this futile resistance, all attempts at opposition to the privilege appear at length to have quailed beneath the determined spirit with which the House invariably asserted it. As to the extent of the privilege in one particular, whether it freed a prisoner in execution at the time of his election to parliament, the legal authorities of the House still fluctuated in opinion. When a petition was presented from Mr. Montague, in March, 1690, for his discharge, and it appeared that he had been confined in the King's Bench prison, on a judgment for debts incurred previously to and at the time of his election, the committee appointed to search for

precedents came to no decision till after repeated adjournments; and, when they at length made a report, the House postponed all consideration of it from time to time, and never proceeded to any final resolution[g].

A worthless member met with better fortune. In 1707 Mr. Asgill wrote to the speaker to inform him that he was detained a prisoner in the Fleet upon two executions. His letter was referred to a committee, and the House ordered him to be delivered out of custody by the serjeant with the mace. The only distinction between the two cases seems to have been, that the one was a prisoner in execution before, and the other subsequent to, his election: that in the first instance the privilege must have had a retrospective operation, and invested the person of the member with a sanctity which it had not at the time of the arrest. Mr. Hatsell, with a natural anxiety to promote the privileges of the Commons' House of Parliament, hesitates a complaint that the question should ever have been mooted, whether a person was eligible to be a member, though an outlaw or in execution at the time of his return.[h] "Had James I.," he says, "succeeded in establishing the doctrine that persons employed in foreign embassies, sheriffs of counties, bankrupts, and persons outlawed or in execution, ought not to be elected or to retain their seats, he would soon, by one or other of these methods, have found means to withdraw from their service in that House many of its ablest members, to whose spirit and attention we, at this distance of time, are very much indebted for the existence of the freedom which this nation now enjoys."

In a note to Burnet, the speaker, Arthur Onslow, that vigilant guardian of all the just rights and privi-

[g] Journals, vol. x. [h] Hatsell's Precedents, title Privilege.

leges of the House, has left a memorable proof of his conviction how much the collective benefit ought to outweigh all considerations of individual hardship and oppression.

"George Robinson, in 1737, was chosen member for Marlow: after this, in the mean time, and before the next session, a commission of bankruptcy issued against him, he having some time before withdrawn himself from his habitation and retired, it was said, into France. The commission of bankruptcy was taken out by the corporation for lending money on pledges, to whom he had been cashier or banker, and was charged by them with great embezzlement of their money, and they petitioned his majesty to send instructions to his ambassador at Paris to procure the said Robinson to be seized and sent over hither. The petition was referred to Sir Philip Yorke, the attorney-general, who immediately came to me to know what privilege I thought Robinson had in the case. Upon talking it over, we both agreed that, as this was for a detention of his person, and within the time of privilege as to every thing but suits, it might be of dangerous consequence to the privilege of parliament, and very ill use might hereafter be made of such a seizure. He did accordingly report that it was by no means advisable for his majesty to give such directions to his ambassador, nor did any such direction go."

There can be no question that the speaker gave judicious advice to the law officers of the crown, but that the privilege is too valuable to be ever impugned, even upon occasions of peculiar enormity, may admit of some discussion. The sweeping censure of Swift, however specious at first sight, is made in utter disregard of the general good to the community, which a

safe and unmolested meeting of the great council of the nation is calculated to produce. "The claim of senators," says that arch satirist, in his essay upon public absurdities in England, "to have themselves and servants exempted from law-suits and arrests, is manifestly absurd. The proceedings at law are already so scandalous a grievance upon account of the delays, that they little need any addition. Whoever is either not able or not willing to pay his just debts, or, to keep other men out of their lands, would evade the decision of the law, is surely but ill qualified to be a legislator. A criminal with as good reason might sit on the bench, with a power of condemning men to be hanged for their honesty."

Full light has been recently thrown upon the advantages and attendant inconveniences of this protection in an eloquent and elaborate debate.

In the session of 1832[1], Mr. Baring proposed to narrow this safeguard of parliament-men within closer limits, and to take away the freedom from arrest in all cases of judgment debts. He stated that he did not mean to touch the right in criminal proceedings nor on mesne process, but only in the event of actual judgments against a member. The bill was finally abandoned, but its ill success may be attributed rather to the period of the session and approaching determination of parliament, as then constituted, than to the weight of arguments used against it. Mr. Wynn, indeed, ably contended, "that the duty of attendance ought not to be interrupted by the private claims of any individual. In maintenance of this principle, the parliament of 1707 released,—(as we have seen,) a very obnoxious member named Asgill from custody, though

[1] Mirror of Parliament.

it immediately afterwards expelled him for an irreligious publication. And just a century later, in 1807, a Mr. Mills having written to the speaker, stating that he was under arrest, was held entitled to his privilege, and on motion discharged out of the custody of the marshal of the King's Bench, though it was notorious that he had purchased his seat to escape payment of his debts, which amounted to £23,000." More recently, on the complaint of Sir Charles Hamilton, that he had been arrested in mistake by an officer who had made no apology, the officer was committed to Newgate and detained ten days.

There is much force in Mr. Herbert's ingenious objection, that some of the members of that House had been known to be in very poor circumstances, and if it were not for this boon, a sort of benefit of clergy in civil suits, it would be in the power of any administration, by buying up his debts, to immure a man of the first-rate abilities. A wealthy merchant, like the late Mr. Thelusson, not over partial to long orations, might have materially shortened the debates, by cooping up together Pitt, Fox, Sheridan, and Courtenay.

The frauds upon debtors, which an abuse of the privilege had occasioned, tainting the character of the House, were chiefly relied upon by the supporters of Mr. Baring's proposition. He cited the case of a Mr. Bourke, who being confined in the King's Bench prison in execution for a considerable debt, procured, through the venal instrumentality of some convenient friends, his return for a pocket borough, but never deigned to come near the House at all; he had horses ready at the door of the prison, started direct for the continent, and never returned. There certainly appears the stamp and mark of honesty in a legisla-

tive measure which should protect the poor against the rich, and prevent the confiding tradesman from being defrauded of his just demands by the class who feel no scruple in running up a long account, and swindling under privilege of parliament. It accords with our notions of political justice, that no man should sit in the House of Commons to levy contributions on his countrymen, who has not himself the means of contributing; and it deserves consideration, whether any character can be more dangerous to the common weal than a senator possessing great and commanding eloquence, but subject to the harassing demands of creditors, eager to grasp at some lucrative post by any methods, and almost constrained against his conscience to barter principles for place. Nor is it any legitimate argument against the existence of much vexation that there should be such few instances of members being sued to judgment and execution. It is impossible to calculate how many creditors may have been deterred from prosecuting their just claims by the known difficulties which the privileges of parliament throw in their way.

The abstract reasons for such a measure appear to outweigh the rather fanciful alarms of some Irish representatives, that it would give rise to a system of purchasing up judgments, mortgages, and incumbrances on the estates of members of the legislature which, though perfectly solvent, they might not be able to satisfy on a short notice. The more grave objection of Lord John Russell was entitled to greater weight, that men of high talent and integrity were often careless in pecuniary affairs, and that it would be injudicious to exclude such persons from the House, because they might on particular occasions be unable to pay all

their debts. "Such power," he urged, "might be made a most improper use of, as hardly anything could be so objectionable as making the private affairs of members the subject of party discussion. By that proposal the constituents were not called upon to consider the integrity and talents of a person they might wish to represent them, but had only to look to his pecuniary circumstances."

The necessity for the change contemplated in Mr. Baring's bill, even were its expediency beyond doubt, has been in some degree removed by the change in the law of imprisonment for debt. Notwithstanding the plausible arguments adduced in favour of such a measure, the historian of the privileges of members cannot but heartily sympathise with the emphatic language in which the author of the Lex Parliamentaria concludes his treatise: "Nothing ought to be so dear to the Commons of Great Britain as a free parliament; that is, a House of Commons every way free and independent of the King, Lords, and Ministry, free in their persons, free in their estates, free in their elections, free in their returns, free in their assembling, free in their speeches, debates, and determinations; free to complain of offenders, free in their prosecuting for offences, and therein free from the fear or influence of others, how great soever; free to guard against the encroachments of arbitrary power, free to preserve the liberties and properties of the subject, and free to part with a share of those properties when necessary for the service of the public."

The privilege of franking letters was one of the very few honorary distinctions which members of the House of Commons retained at the passing of the Reform Bill. The sending and receiving letters free

had become a mark of consideration, and, whilst the loss to the revenue was not considerable, the gratification this boon afforded to the privileged class of conferring little favours should not be lightly esteemed. It seemed the *quiddam honorarium*—the distinguishing sign—the graceful apanage of an M.P. The history of its introduction is curious, for, in company with many prized distinctions, it had an ignoble origin in the Pensioner Parliament of Charles II., in a settlement of the revenues of the post-office. When Colonel Titus reported the bill,[k] Sir Walter Erle delivered a proviso for the letters of all members of parliament to go free during their sitting. Sir Heneage Finch said it was a poor, mendicant, proviso. The question being called for, the speaker, Sir Harbottle Grimstone, was unwilling to put it, saying he felt ashamed of it, nevertheless the proviso was carried. The restriction of this privilege to the period of parliament's sitting was speedily overlooked in practice, and for half a century members enjoyed a license of writing free over any number of post-office letters, and of enclosing franks in parcels to be used by their friends and constituents for any period of time, and of any weight.

At the accession, 1715, complaint was made of great abuses in franking post letters, "tending to the lessening of his majesty's revenue and to the dispersion of scandalous and seditious libels." As some slight remedy for the evil, the House in its tenderness directed that the superscription of each letter should be in the member's hand-writing. A very liberal extension of the privilege appears to have been still connived at as an innocent job. Dr. Johnson relates, in his life of Cave the printer, that "he was raised to

[k] Grey's Debates.

the office of clerk of the franks, in which he acted with great spirit and firmness, and often stopped franks which were given by members of parliament to their friends, because he thought such extension of a peculiar right illegal. This raised many complaints, and, having stopped, among others, a frank given by the old Duchess of Marlborough to Mr. Walter Plummer, he was cited before the House as for a breach of privilege, and accused, I suppose very unjustly, of opening letters to detect them. He was treated with great harshness and severity, but declining their questions, by pleading his oath of secrecy, was at last dismissed;"—no marked encouragement, assuredly, to vigilance in the detection of abuses. That many members (and tradition points strongly to the Scotch) strained this permission to an abuse, there is no doubt. The gossiping Wraxall[1] proves how long and to what extent it prevailed. "Till 1784, neither date nor place was necessary. Not only were covers transmitted by hundreds, packed in boxes, from one part of the kingdom to the other, and laid up as a magazine for future expenditure, but far greater perversions of the original principle, for purposes very injurious to the revenue, took place. I was acquained with a member, a native of Scotland, decorated with the order of the Bath, who sent up to London from Edinburgh by one post thirty-three covers, addressed to an eminent banking-house in the Strand, most of which contained, not letters, but garden-seeds. The postmaster-general had the covers carried up to the speaker's chair; but he voted for Lord North, and the business never came before the House."

Merchants used to send and receive prices-current

[1] Wraxall's Posthumous Memoirs.

and circulars free, and bankers have been known to realize some hundred pounds a-year by an abuse of this advantage. Since the Union, an honourable member has deposited the privilege in the hands of his bankers, to be placed to the credit side of his account, the daily number of twenty-five letters, the full amount allowed to be sent and received, being under his covers.

In 1760, the Lords amended a new Post-office Bill, by leaving out the proviso of exemption. The Commons agreed to this, on a private assurance from the ministers of the crown that the privilege should be continued; and accordingly a warrant was issued to the post-master general, directing the allowance to the extent of two ounces in weight, thus reducing the bulk of letters post-free within some moderate dimensions. During the fiscal embarrassments to which the unfortunate American war had reduced the country, Lord North, in opening the budget, intimated one method which had suggested itself of supplying the deficiencies in the revenue, by restraining, or entirely suppressing, the privilege of franking.[m] But the House had become less sensitive to what their predecessors deemed "a mendicant proviso," and interrupted the scheme with such a loud and general murmur of disapprobation, that the easy chancellor of the exchequer stopped suddenly short, and proposed instead the taking off the prohibition on foreign cambrics. The attempt at restraining the boon was renewed by an abler financier, Mr. Pitt, with more decision and with success. He proposed certain regulations, the general object of which was to restrain the number of franks sent or received by any

[m] Parliamentary History, vol. xxxiv.

post, and also to restrict them in regard to weight. He designed that in future all franks should be dated, both as to time and place,—a measure which would in some degree limit the advantage, as the limitation ought to be, to the personal advantage of the members of the two Houses.

These salutary amendments, yielding a large annual profit to the revenue, were agreed to without a murmur. The late active secretary of the post-office, Sir Francis Freeling, was of opinion that the post-office lost a mere trifle by the modified exercise of this privilege, so much was gained by answers to the letters, and by mistakes in the envelopes themselves. The exercise of franking was, after this regulation, watched with such jealousy that, in 1799, a member brought a charge, which the House seriously investigated, against Sir Benjamin Hammet, for deputing to his son the privilege during his illness. His friends justified this laxity of practice by the precedents of former parliaments, whose members, they urged, delegated this power occasionally to their wives, daughters, and other ladies; but the excuse was not admitted, and the worthy knight received a reprimand, and caution not to offend again.

All possibility of abuse is now at length removed. An economical reform in the Post-office, as searching and complete as that of the House itself, has put an end to this counting-house convenience and drawing-room luxury. These cheap favours to constituents are abolished, and the last feather in the plume of privilege remorselessly torn away.

CHAPTER X.

In the triumphant vindication of the undoubted privileges of the Commons, and the able advocacy of their somewhat questionable powers, assumed from time to time, the lawyers led the van, their earliest, most resolute, and most persevering champions. From the first dawn of civil liberty to its full development, they stood between the crown and the subject, asserting the right of every member to express his thoughts fully, freely, fearlessly, withstanding the oppressions of the nobles, and upholding the right of the representatives of the people to tax themselves. Who, it may be asked, took the lead in those memorable discussions, which established the freedom of his majesty's poor Commons, and confirmed a wavering House in their resolution, but Sir Edward Coke, Selden, and Littleton? Who but these great constitutional lawyers managed the memorable conference with the Lords, which preceded the Bill of Rights? Who drew up that Magna Charta, but Serjeant Glanville, and Pym, and Hyde? At the Restoration, the cautious wisdom of Sir Matthew Hale would have fettered the king with conditions, that might have saved his reign from alternating between anarchy and despotism. Whose voice more loud than that of Maynard, Somers, Sawyer, and Williams, in

denouncing the tyranny of James; whose suggestions so valuable in establishing the happy Revolution?

Their praise is not, however, confined to the journals and statute-book: the fears of usurping tyrants in the early annals of English history, proclamations of enmity, and futile efforts at exclusion, form the best, because involuntary, homage to the merits of our great lawyers. The statute 23rd Edward III., called that parliament the meeting of the learned men, from the number of persons learned in the laws which it included. But, as the exactions of the royal favourites were by these means thwarted, they petitioned that "*Nul home de ley soient retournez ni acceptez chevaliers des Countees.*" The king willed in answer "that knights and esquires only should be returned in full counties." In the writ of summons to parliament 5th Henry IV. was inserted the famous clause, "*Nolumus quod aliquis homo ad legem aliqualiter sit electus.*" This *Nolumus*, we are assured,[n] was inserted by Henry IV. in his writ, as he suffered from extreme want of money, and felt afraid of his demands being resisted.

Deprived of their orators, the parliament granted a subsidy *tristabilis et valde gravis*, and was called by Speed the "lack-learning parliament," by Walsingham *Parliamentum indoctorum*. "The prohibition that no apprentice or man following the law should be chosen," says Coke, 4 Institute 48, "made the parliament fruitless, and never a good law passed thereat, and called the 'lack-learning parliament.'"

Since this time lawyers, for the great and good service of the Commons, have been eligible, but always objects of jealousy on the part of the crown.

[n] Coke's Institutes.

James I. wrote to Secretary Calvert, desiring the House "to go on cheerfully in their business, rejecting the curious wrangling of lawyers upon words and syllables." In his speech, 1623, the pedantic monarch says, "Let not any stir you up to law questions, debates, quirks, tricks, and jerks." [o] His son, declaring his reasons for dissolving parliament, said, "Young lawyers sitting there take upon them to decry the opinions of the judges, and some have not doubted to maintain, 'That the resolutions of that House must bind the judges,' a thing never heard of in ages past. And when one of the members of that House, speaking of our councillors, said 'we had wicked counsel;' and another said, 'That the council and judges sought to trample under feet the liberty of the subject;' and a third traduced our court of Star Chamber for the sentence given against Savage, they passed without check or censure by the House: By which may appear how far the members of that House have of late swollen beyond the rules of moderation and the modesty of former times, and this under the pretence of privilege and freedom of speech, whereby they take liberty to declare against all authority of council and courts at their pleasure."

When the dark Earl of Strafford sought to establish an absolute tyranny in England, his first endeavour was to sweep the obstructing lawyers from his path. "I disdain," he writes to Archbishop Laud, [p] "to see the gown-men hang their noses over the flowers of the crown, and blow and snuffle upon them till they take both scent and beauty off them;" and again, "How well this suits with monarchy, when common lawyers monopolize all to be governed by their year-books, you

[o] Parliamentary History, vol. i. [p] Forster's Lord Strafford.

in England have a costly experience." The reason of his hate is clearly legible—all who run may read it. But the secret of their unpopularity with other classes, who have no object to gain, seems less easily accounted for, however undeniable in fact. Were their information ever so valuable, their knowledge ever so important, they have never been favourites with the constituent body. The high-born patricians, though a fourth part of the peerage is derived from the law, sneered at the adventurers, who could with such facility out talk them. Naval and military men undervalued the peaceful labours of the gown; county-members reckoning their acres, whom Canning termed landed grandees, would not listen to learned gentlemen, who must speak volubly by the hour forsooth, according to instructions, and were hired by fees. At three different eras in parliamentary history, the aversion of three different sections of the community is displayed by their representatives in lively colours. Under the Stuarts, when the clergy were still struggling for civil offices of state, Archbishop Whitgift evinces in a private letter to Burleigh, the jealousy of the proud churchman: "The temporal lawyer, whose learning is no learning anywhere but here at home, being born to nothing, doth by his labour and travail in that barbarous knowledge purchase to himself and his heirs for ever a thousand pounds per annum, and oftentimes much more, whereof there are at this day many examples." [q] Bishop Goodman depicts in a still more amusing manner his disgust at the good offices which men of the law exacted by their fears from the commonalty.

[q] Strype's Life of Archbishop Whitgift.

[r] Bishop Goodman's Letters, temp. James I.

"One knight did affirm, that in one term he gave twenty nobles in rewards to the door-keepers of the attorney-general." The poor bishop complains "that the lawyers usually had all the good matches in the kingdom, and does boldly say there is not a mean lawyer but spendeth as much venison in his house as he doth that hath an ordinary park. I did once intend to have built a church, and a lawyer in my neighbourhood did intend to build himself a fair house. One sent to desire him to accept from him all his timber; another sent to desire he might supply him with all the iron. In the building of my church, where it was so necessary, for without the church they had not God's service, and no church was near them within four or five miles, truly I could not get the contribution of one farthing."

In the Pensioner Parliament, the saturnine Andrew Marvel, representing the country and trading interest, railed at the long robe in this good set fashion:[s] "The wisdom and probity of the law went off for the most part with good Sir Matthew Hale, and justice is made a mere property. This poisonous arrow strikes to the very heart of government. What French counsel, what standing forces, what parliamentary bribes, what treating, and all the other machinations of wicked men have not been able to effect, may be more compendiously acted by twelve judges in scarlet. What self-denial were in the learned counsel in law, did they not vindicate the decisions of the judges, perplex all remedies against the encroachments and corruptions of courts of judicature, word all acts towards the advantage of their own profession, palliate abuses in elections, extenuate and advocate public crimes, where the

[s] Marvel on the Growth of Popery.

criminal may prove considerable, step into the chair of a money bill, and pen the clauses so dubiously, that they may be interpreted in Westminster Hall beyond the House's intention, mislead the House not only in point of law, but even in matter of fact, without any respect to veracity, but all to farther promotion." At the Revolution, the courtly Lord Halifax, a favourable specimen of the nobleman in Charles the Second's day, cautioned the constituencies[1] "against choosing lawyers, who almost all had narrow minds, and by the whole scope of their studies found themselves pressed to adhere to the king and his prerogative."

For this general odium, the venality of some and tergiversation of other great lawyers, who trafficked with their powers of speech, may perhaps in some degree account.

The exactions of Dudley, wresting the law to iniquity; the apostacy of Noy, suggesting in his guilty flight the impost of ship-money; the late repentance of Coke, becoming in his old age, but not till then, a tribune of the people, may in part explain this deep-rooted aversion. But a still stronger motive of dislike may be traced to the trivial jealousy which the weak entertain against the strong, depreciating those arts of oratory with which themselves may be unacquainted; undervaluing that research and laborious investigation for which they have neither leisure nor capacity; measuring by a money standard, those acquirements which though it may retain, gold cannot purchase. The gift of ready elocution, the self-possession, apt address, unfailing facility of speech, and those attendant evils, the habits of prolixity and repetition, an unsparing consumption of time, and minute subtlety, tend to

[1] On the Choice of a Speaker.

weariness, and irritate and annoy the most impatient, the least merciful in criticism, of all audiences—a crowded House of Commons. Hence the frequent complaints we read of the House being lawyer-ridden; of the garrulity of learned serjeants; of St. Stephen's being overwhelmed with the politicians of Westminster Hall, though they count but very few in a division. The number of lawyers in parliament, in James I's. time, was not more than twenty or thirty. When that king commanded the House, "as an absolute king," to confer with the judges on a disputed return for the county of Bucks, they selected a committee of twenty-one lawyers and sixteen gentlemen—apparently all the lawyers in the House with the exception of Coke—comprising the eminent names of Serjeant Hobbard, Doddridge, Sir Francis Bacon, Yelverton, Lawrence, Hyde, Sir Roger Wilbraham, &c., yet has the return of practising barristers been always proportionably small. Of this compact phalanx there has been in modern times rather a diminution than increase, if we exclude those country gentlemen and men of large fortune who have been called to the bar, more as a matter of form than with any serious intention of pursuing the law as a profession, and on whom of course the *esprit de corps* must have little, if any, weight. So long as the House shall continue a legislative assembly, there must be some persons conversant with the language and interpretation of statutes, nor can they become numerically formidable, since the abolition of nomination boroughs. Their favour with large popular constituencies is not so proverbial, nor their wealth or influence so great, as to occasion, except in the minds of sensitive country gentlemen, an inordinate cause of alarm. Prynne's argument, that their exclusion would

shorten the debates, can only be noticed with contempt. There may be serious evil in excessive discussion, but the forcible thrusting forth of argument, the carrying measures of government by the mere tyranny of numbers, is a far more serious evil, and abhorrent to the genius of the constitution.

The unpopularity of lawyers attained its maximum during the convulsion of the civil wars, when the sword had been thrown into the scale, and justice kicked the beam. Lord Keeper Whitelocke, that they might not be forcibly excluded from their seats, made a long and ample apology in behalf of the profession.[u] One of his arguments was a double-edged sword; answering the military sneer, "that gownsmen did not undergo such dangers and hardships as martial men," he pointed to the great services performed by Lieutenant-General Jones, Commissary Ireton, and others, who, putting off their gowns, had served the parliament stoutly as soldiers. His answer to the invidious motion that lawyers, being members of the House, should, during that time, forbear their practice and pleading, will receive a more general assent: "That in the act, which the member might be pleased to bring in for that purpose, it might also be inserted that merchants should forbear their trading, physicians from visiting their patients, and country gentlemen forbear to sell their corn and wool, whilst they sat as members." So long as the Interregnum lasted, the red coat and sabretasche superseded the lawyer's gown; but at the Restoration, the gentle goodness of Hale, the stout presbyterianism of Maynard, the antiquarian research of Prynne, and sound constitutional learning

[u] Whitelocke's Memoirs.

of Bridgeman and Vaughan, were not without some avail.

It must be confessed, however, that the legal profession shared largely in the degeneracy which pervaded with universal taint the reigns of Charles II. and his bigoted brother. From no period of our history can a railer at law and lawyers extract so many obnoxious persons and incidents. On the bench, Scroggs, North, Jeffries, Saunders, and Wythens made a shambles of Westminster Hall: in the senate, the blustering violence of Williams and Jones veered about at each breath of corruption between court obsequiousness and factious sedition. Even in this depth of degradation, it should be remembered that legal science still left its trace and character in those admirable statutes which reflected a legislative glory on the reign of Charles; which, in the act for abolishing military tenures, in the habeas corpus act, the statute of wills, the statute of limitations, the statute of frauds, have conferred enduring good, and protected from spoil or violence both persons and property.

Amid the din of the Pensioner Parliament, the lawyer's voice might be heard, now battling stoutly against the royal prerogative, now inveighing against the upper house, baying to death Roman Catholic noblemen, and hoarse with applauding the perjuries of Oates. But though they shared in the excesses of fanaticism and did not escape the pestilent epidemic of those distempered times,—though among their first-class men may be ranked grand apostates from the cause of constitutional liberty, the honours of an ambitious profession proving too strong a bait for the firmness of Noy, the integrity of Digges and Littleton,—without them, wayward, ambitious, and recreant,

as too many were, what would have become of the laws and liberties of Englishmen?

If the accents of sound deliberative wisdom could have been listened to in the moody and factious temper of the Long Parliament, the eloquence of Glanville and the persuasive arguments of Hyde would not have pleaded in vain. Let us not disparage a profession which has adorned the bench, with such chancellors as Nottingham, Somers, and Hardwicke—has placed in the chair of the House of Commons its best speakers, More and Coke—has preserved its privileges, and added to the renown of its orators; which engraved on the statute-book so many wise and excellent laws, and, as a crowning glory, took an active and leading part in the settlement of the happy revolution.

At the head of those distinguished lawyers who were summoned to the Convention Parliament may fairly be placed the venerable Maynard, then in his eighty-sixth year!

To have toiled in his profession for sixty years with intellect and spirits unbroken; to have received a larger amount of fees than any serjeant, or utter barrister before his time; to have impeached some of the most eminent lay and spiritual peers, and to have been impeached himself and twice committed to the Tower; to have held rank and conciliated favour under five dynasties—for he partook more of the willow than the oak—and finally to have been first commissioner of the great seal at the age of eighty-five—are a few among the many singular incidents that illustrate the life of this remarkable man.

Mr. Maynard was born at Tavistock, in 1602, the eldest son of a private gentleman resident in that town, and was educated at Exeter College, Oxford,

previously to his admission at the Inner Temple. His acuteness and docility recommended him to the notice of Mr. Noy, the celebrated attorney-general of Charles I., and he rose early into repute with the attorneys, from being looked upon, according to his own account, as Mr. Noy's favourite. He had formidable rivals in Rolle and Selden, but soon obtained professional eminence. His name frequently occurs in Croke's Reports, forty-eight years before quitting the bar. In 1647 his receipts from the profession were so great, that Whitelocke, a rival lawyer, records the fact in a tone of wondering envy. "I attended the House, and Maynard and I talking of our circuit gains, he told me that he got on the last circuit £700, which I believe was more than any one of our profession got before." It was then more common than even in modern days for aspiring lawyers to become members of parliament.

Maynard accordingly secured a seat for Totness in 1640, but always acted on the prudent rule of making politics subservient to the law. He had been from boyhood closely wedded to his profession, and was not unfaithful. Though a decided member of the presbyterian party, coinciding with all their schemes, and compelled from the deference paid to his legal lore to take part in those state prosecutions with which the times were rife, he "did their bidding gently," and never envenomed the duties of the advocate, like Pym or St. John, by mixing with their performance the bitter resentments of the man.

"Mr. Hyde's friends in the profession," writes Clarendon in his faithful history, "were, among others, John Maynard and Bulstrode Whitelocke, men of eminent parts and great learning out of their professions, and in their professions of signal reputation;

and, though the two last did afterwards bow their knees to Baal, and so swerved from their allegiance, it was with less rancour and malice than other men: they never led, but followed, and were rather carried away with the torrent, than swam with the stream, and failed through those infirmities which less than a general defection and a prosperous rebellion could never have discovered." To this moderation, easiness of temper, natural caution, the acquired shrewdness of the lawyer, and appetency of gain, in different degrees of strength, jointly contributed. He would not cut off all chance of reconciliation with temperate royalists, even when he went most heartily with the proceedings of the roundheads. Abstaining from all unnecessary harshness, he supported the other managers in the impeachments of Strafford and Laud, and sat in the assembly of divines, when a synod of laymen met them to consider the best method of establishing the presbyterian form of church government. He even accepted the office of deputy lieutenant, when the House of Commons ventured on usurping the functions of royalty, but never acted in that character. This prudent, almost timid, reserve appears to have been sorely tried on an occasion which is amusingly described by Whitelocke, though the quaintness of his narrative must suffer from abridgment.

"In 1644," we are told, "the lord general (Essex) began to have some jealousies of Lieutenant-General Cromwell; one evening, very late, Maynard and I were sent for to Essex House, and there was no excuse to be admitted, nor did we know beforehand (a decided case of hardship) the occasion of our being sent for." They found in council the lord general and Scots commissioners, with Holles and other presby-

terian leaders. The Scottish chancellor opened the cause of their summons, and the memorialist imitates in his spelling the pronunciation of the cannie Scot, "You ken varry weel that General Cromwell is no friend of ours. It is requisite this obstacle or *remora* should be removed. The Solemn League and Covenant has settled how an incendiary is to be proceeded against. Your opinion is desired, what is the meaning of incendiary, and whilke way to proceed against him, if he be such. By our law in Scotland we *clepe* him an incendiary who kindleth the coals of contention and raiseth differences in the state to the public damage and he is '*tanquam publicus hostis patriæ.*'"

Maynard politely gave way to Whitelocke in solving this knotty point, and then expressed a submissive opinion that, however correctly defined the term incendiary might be, it was a term of civil law, and not often met with in his books; the application of it was quite another question. "General Cromwell," he added, "is a person of great favour and interest with the House of Commons, and with some of the House of Peers likewise, therefore there must be proofs, and the most clear and evident against him, to prevail with the parliament to judge him an incendiary. I confess, my lords, I do not, in my private knowledge, assure myself of any such particulars, nor have we heard of any here, and I believe it will be more difficult than some of us imagine to fasten this upon him. The proofs are not ripe—it is not fit for my lord general and the Scots commissioners yet to appear in it."

This sensible advice, after a sharp debate and with much reluctance, was adopted. At two in the morning, the shrewd counsellors were dismissed with thanks, and stole away to their respective homes greatly comforted

no doubt at having escaped an instant peril. "I believe," says Whitelocke, in concluding his account of their secret interview, "several false brethren informed Cromwell of all that passed. After that he seemed more kind to me and Maynard than he had been formerly." Notwithstanding this comparative restoration to favour, he was too able a member of the presbyterian party not to be marked out as a victim by the independent faction in their struggles for ascendency. In 1647 he was charged by Sir Thomas Fairfax and the army, who included ten other members most opposed to violent measures, in the same sweeping accusation, with being delinquents and favouring the royal cause. The terror of such a charge seemed sufficient to deter the feeble remnant of the Long Parliament from whispering one word in their defence. They resolved, without a division, that he should be expelled, committed to the Tower and impeached. Several articles of impeachment were in due course carried up to the Lords, charging him with plotting to levy war against the parliament, and the speaker commanded him to kneel at the bar, as a delinquent. He refused with prompt and unexpected boldness, saying he did not come to make bargains, but desired, as a commoner of England and a free-born subject, to be tried by indictment. And although the Lords fined him £500 for contumacy, he persisted in his refusal to kneel, protesting at the same time that the articles brought against him were not believed by those who brought them up. His unwonted firmness taught the movement party that he could not be crushed with impunity, and in a few months these hostile proceedings were discharged.

He opposed with spirit the declaration of the

House of Commons for a vote of non-communication with the king, declaring that by such a vote parliament dissolved itself, and inveighed against the insolent remonstrance of the army calling for justice on Charles I., as the capital source of all grievances, which their officers, now conscious of their overwhelming power, forwarded from St. Albans. Still wishing to temporize, he argued, says a contemporary, as if he had taken fees on both sides, "one while magnifying the gallant deeds of the army, then *firking* them for their remonstrance."

When the execution of the unhappy Charles was in agitation, his humanity again mastered all his pusillanimous doubts; he burst into the House, and pleaded for his royal master's life with such impassioned energy that Cromwell demanded that he should be brought to the bar. But when the king had suffered martyrdom, he again relapsed into prudence, and accepted office from the usurper. "In 1653," writes honest Anthony Wood, "Oliver Protector, Maynard was by writ, dated February 1st, called to the degree of serjeant at law, having before taken the engagement, and on May 1st, was by patent made the Protector's serjeant, and pleaded in his and the then commonwealth's behalf against several royalists that were tried in the pretended high court of parliament, wherein several generous cavaliers and noble hearts received the dismal sentence of death."

In his character as serjeant, he would still have acted with honest vigour for the good of the subject, had not his heart failed him for fear. The story of his tergiversation is told, with a warmth that becomes the lover of liberty, by Ludlow. "When George Cony, a merchant, refused to pay custom, and it was

taken by force (during the usurpation), he sued the collector at common law. Cromwell sent his counsel, serjeants Maynard and Twysden, to the Tower, where they had not been above three or four days, when they unworthily petitioned to be set at liberty, acknowledging their fault, and promising to do so no more, choosing rather to sacrifice the cause of their client, wherein that of their country was also eminently concerned, than to endure a little restraint with the loss of their fees for a few days." Cromwell told the judges they should not suffer the lawyers to prate what it would not become them to hear. So effectually subdued indeed was Westminster Hall, that even the faint-hearted Maynard appears to have been among his brothers of the long robe conspicuous for hardihood. When Lieutenant-Colonel Lilburn was brought again to his trial for sedition, he prayed earnestly for further time; in regard the counsel assigned him refused to appear for him, only serjeant Maynard, who was sick. Whether this was a convenient sickness of the body or not, Colonel Lilburn gained a reprieve and eventually an acquittal.

In one of the few parliaments summoned during the Commonwealth, this active lawyer was thought of sufficient consideration to be returned for several boroughs, and made his election for Newton.

From the parliament of 1656 he was excluded by the audacious virulence of Cromwell, who claimed the power of verifying the regularity of the elections, together with Haselrig, Ashley Cooper, and the most public-spirited of the commonwealth party.

The short notes of the debates taken by Mr. Burton serve to show that he was on his re-admission a frequent and judicious speaker, but are too brief and

quaint to represent the style of his oratory. He is made to bear his protest against two decided evils, long speeches, and excessive legislation. "I profess to you," he said, "I am not ambitious, I would be lower. his parliament did pass more laws in one month than the best student in England can read in a year, and well if he can understand it then. We had a speech to-day (Sir Arthur Haslerig's) which lasted from nine till twelve. If you go on at this rate, to have one speech a day, the Dutch will give you £2000 a-day to do so." With the wary spleen of a sectarian, he supported a convenient motion for the dominant party that parsons should have no votes at their elections, and is summary in rejecting a cavalier's petition. But the nation was by this time sick of a twelve years' tyranny, under the pretence of popular government, and the iron hand of the Protector loosed its firm grasp of power in death. His ancient serjeant hastened to Whitehall to swear fealty to Richard Cromwell, followed as a mourner in the pompous funeral procession of his father, and the following year repaired again to court to welcome the abjured Stuart on his restoration. The guilt of the individual was absorbed in that of the multitude, and his merit as a lawyer none could question. He was accordingly dubbed a knight by Charles on Lord Mayor's day, and created by patent his ancient serjeant. Nay, had the judges been better paid, he might have been elevated to the bench, but Sir John was too cunning to accept the offer of a precarious dignity at the expense of certain gain. He would not exchange the solid *honorarium* of the bar for the pinching allowance then doled out with most unwise parsimony to the bench.

That the commonwealth lawyer was not, however,

over-popular with the cavaliers, is proved by the following note of the *pious* Mr. Pepys at the close of his Journal on Coronation Day: "Thus did the day end with joy everywhere, and, blessed be God, I have not heard of any mischance to any body through it all, but only to Serjeant Glynne, whose horse fell upon him yesterday, and is like to kill him, which people do please themselves to see how just God is to punish the rogue at such a time as this, he being now one of the king's serjeants, and rode in the cavalcade with Maynard, to whom people wish the same fortune." Both serjeants escaped; the one from his actual and the other from his imprecated tumble, to earn disgrace in the next year as an earnest for their full-blown honours. The Protector's chief justice, Glynne, divided with his serjeant, Maynard, the shame of appearing at Westminster, in 1661, among the crown lawyers to sustain the prosecution against Sir Henry Vane; an instance of tergiversation for which they well deserved to be stitched into Butler's rhymes—

> "Did not the learned Glynne and Maynard
> To make good subjects traitors, strain hard?"

for that subject, whether good, bad, or indifferent, had only carried out their own doctrines, as free as themselves from all personal participation in the death of the royal martyr, and with whom they "had taken sweet counsel together as friends." During the distracted reign of Charles II., Sir John Maynard sought shelter on the civil side of Westminster Hall, his increased age and infirmities serving as a convenient plea for handing over the conduct of state trials to younger, and, in bodily health, more able men. Roger North relates, in an acrimonious but amusing manner,

some characteristic and amusing anecdotes of his subtlety and thrift [w].

"Serjeant Maynard was a very able practiser, and used to lay traps for the judges, and very cunning ones; but, if he discovered that he was observed, he straightway gave it up and contended not upon a fallacy which he foresaw would be resolved. He once had a mind to punish a man who had voted against his interest in a borough in the West; and brought an action against him for the scandalous words spoke at a time when a member to serve in the House of Commons for that borough was to be chosen; and, after his great skill, he first laid his action in the county of Middlesex, and that was by virtue of his privilege, which supposes a serjeant is attendant on the Court of Common Pleas and cannot be drawn from the county where the court sat; and then, in the next place, he charged the words in Latin, that, if he proved the effect, it would be sufficient, whereas, being in English, they must prove the very words to a tittle; and those were a long story that used to be told of Mr. Noy and of the cock lawyers of the West, and this was tried before his lordship (Lord Keeper Guildford) at the nisi prius sittings for the Common Pleas for Middlesex. The witness telling the story as he swore the defendant told it, said, 'that a client came to the serjeant and gave him a basket of pippins, and every pippin had a piece of gold in it.' 'Those were golden pippins!' quoth the judge. The serjeant began to puff, not bearing the jest; so the witness went on, 'and then,' said he, 'the other side came, and gave him a roasting pig (as it is called in the West), and in the belly of that, there

[w] Life of Lord Guildford.

were fifty broad pieces.' 'That's good sauce to a pig,' quoth the judge again. This put the serjeant out of all patience, and speaking to those about him, 'This,' said he, 'is on purpose to make me ridiculous!' This story being sworn, the judge directed the jury to find for the serjeant; but in the court the judgment was arrested, because the words were but a blind story, and went as mere merriment over ale without intent to slander. Such bitterness flows from the sour spirits of old pretended republicans."

"One afternoon, at the nisi prius court of the Common Pleas in Westminster Hall, before the judge sat, a poor half-starved old woman, who sold sweetmeats to school-boys at the end of the bar, desired the serjeant to pay her two shillings for keeping his hat two terms. She spoke two or three times, and he took no notice of her, and then I told the serjeant the poor woman wanted her money, and I thought he would do well to pay her. The serjeant fumbled a little, and then said to me, 'Lend me a shilling.' 'Ay, with all my heart,' quoth I, 'to pay the poor woman.' He took it, and gave it her; but she asked for another. I said I would lend him that also to pay the woman. 'No, don't boy,' he said, 'for I never intend to pay you this,' and he was as good as his word."

But, though smarting under the loss of his shilling, poor North is compelled to pay reluctant homage to the legal acumen of his crafty old friend. "This great man, as I must call him, since his natural and acquired abilities, and the immense gains he had by practice, justly entitle him to that epithet, was an anti-restoration lawyer. In 1684, I heard him say in the Court of Chancery, of a cause then at

hearing, that he was counsel in that cause in the year 1643. His actions in the rebellious times made the Act of Indemnity smell sweet; and afterwards he had the cunning to temporize and got to be made the king's eldest serjeant, but advanced no further."

A more profound observer of men and manners, Bishop Warburton, is less severe in his strictures upon the political delinquencies of the trimming lawyer. "Old Maynard and Whitelocke were both lawyers of family, and, in the Long Parliament, both of the presbyterian faction, both learned and eminent in their profession, moderate, sage, and steady, and so far they agreed. In this they differed: Maynard had strong parts with a serious modesty; Whitelocke was weak and vain; a sense of honour made Maynard stick to the presbyterian faction, and to fall with them; but, as he had much phlegm and caution, not like Holles to fall for them, so that he was never marked out by the independent party for their first sacrifice. Maynard, by adhering steadily but not violently to the party he set out with, was reverenced by all, and, had he not been more intent upon the affairs of his profession, might have become considerable by station."

In this flattering likeness the profile only is taken. Neither in the House nor at the bar did the serjeant in his personal character command the reverence which is here attributed to him, nor will his full-length portrait give as agreeable, though it may a more faithful, representation. In the courts, indeed, he played his bowls admirably, but would sometimes meet with rubbers. He was rallying Gadbury, a witness to the popish plot, when the man retorted "Mr. Serjeant, I was none of the tribe of forty-one," and the conscious-stricken non-conformist sat down.

But even to the last he was ready with his repartee, and obtained a partial homage from his depth of learning. When Jeffries, with habitual roughness, told Maynard he had got so old he forgot the law, the serjeant retorted with a readiness which has become proverbial for its felicity, "'Tis true, Sir George, I have forgot more law than ever you knew!" When, after his promotion to the bench, Jeffries was disputing some legal point with Ward, a barrister, overwhelming him with his rude rhetoric, "Do not make such discourses *ad captandum populum* with your flourishes. I will none of your enamel nor your garniture," the aged serjeant rose to the rescue of his oppressed brother, and stated how the law really stood, in which statement the chief justice immediately acquiesced.

The deference thus conceded to his great erudition sometimes betrayed the court into error. Chief Justice Pemberton, having adopted his opinion on the authority of some case, which could not be met with immediately, but to which he referred the judge, afterwards reproached him with having misled the bench, and said that, when he looked into the case, he found that his brother Maynard might as well have tossed his cap into the air, or have laughed in his face. It would have been better for his memory had he continued to amuse the civil side of Westminster Hall with these comparatively innocent stratagems, and not suffered himself in 1679 to act the character of high priest, in offering up what he must have believed to be an innocent victim, to appease the popular cry for vengeance. His hatred of popery, together with the little risk, induced the wary lawyer verging on eighty to imbrue his hands once more in the shedding of

innocent blood, and to carry up to the Lords the articles of impeachment against Lord Stafford for participating in a popish plot which had no existence. It was craftily thought that, from the advanced age and enfeebled intellect of this unhappy peer, he would have bowed his head to the stroke without resistance, but, fortunately for the cause of truth and justice, he deceived the expectations of his persecutors, and proved the perjured testimony of the suborned witnesses with a force of conviction, that would have ensured his acquittal from all but the wilfully hardened, and judicially blind.

In another state prosecution eagerly pressed forward, Maynard, though not naturally cruel, but time-serving, brought his legal lore to bear down the accused. He explained, on the impeachment being voted against Lord Danby, the words of the statute 25th Edward III. (the great statute of high treason), that the courts of law could only proceed on one of the crimes there enumerated, but that parliament had still a power by a clause in the act to declare what was treason. Swift remarks on this casuistry with his usual terseness: "Yes, by a new act, but not by a retrospective one, for Maynard was a knave and a fool with all his law!" On another measure of a more innocuous nature, but framed in a spirit of superfluous legislation, the serjeant betrayed a prejudice but too congenial with the age in which he lived. He sought to carry an act, which the good sense of the House rejected, to prevent further building in London or the neighbourhood. "This building," he said, almost pathetically, "is the ruin of the gentry and ruin of religion, leaving so many good people without churches to go to. This enlarging of

London makes it filled with lacquies and pages. I would prevent the design of enlarging the city or places adjacent. In St. Giles' parish, scarce the fifth part can come to church, and they must be of no religion at last!" This last suggestion, marked with far-thinking shrewdness, (well for this country had it been fully weighed and acted on,) atones for the folly of a prohibition which would have restricted the west end of London to Bow-street and the Strand, and not even included in its precincts what the next generation deemed the fashion of Great Ormond-street and the exclusiveness of Soho-square. But his view of public policy was contracted within a narrow vision.

In matters of law Maynard shone in the House as at the bar. His arguments in Skinner's case,—that subject of warm conflict at a conference with the Lords—delighted his brother Commoners so much, that they were entered on the journals by express order of the House. Sharing in the popular delusion, he moved in 1681 to agree with the Lords that the hopes of a popish successor were the grounds of the plot. "Shall we be led," he exclaimed, "like an ox to the slaughter, or a fool to the stocks, and not apprehend our danger?" He was then the father of the House, and could refer to a precedent, when he was in the chair of the Committee of Elections, in the Long Parliament in 1641. The respect gracefully paid to the shrewd old lawyer rescued him from the grasp of the serjeant for going his circuit without leave of absence. His son Joseph Maynard was instructed to inform his father that he must return forthwith to his attendance, and that, if he refused prompt compliance, he should be sent for in custody.

The times were lowering with danger, and the parliamentary patriarch had two excellent motives for his journey—to escape from trouble and accumulate fees.

During the short reign of James, when a less discerning eye than the serjeant's could see from afar in the political horizon the distant haze of revolution, he could with difficulty be dragged from his forensic retreat, even by the consummate impudence of Titus Oates. When that infamous bravo was tried for perjury in 1685, he called upon Serjeant Maynard to speak to the legality of the proceedings against Lord Stafford, but the learned gentleman was troubled with a most convenient forgetfulness, and begged to be excused giving any evidence on the subject, alleging as a reason, "I can never swear to my memory for any cause so long ago." The defendant remarked, with his accustomed audacity, "My lord, I am very sorry the learned serjeant's age should so impair his memory," and was as usual huffed for his sauciness by the judge: "I dare say you are not more sorry than he is for his age!" Summoned to the servile parliament of 1685, Maynard did the state good service in exposing the iniquity of an act by which it was sought to enlarge the definition of treason. A clause had been so framed that anything said in disparagement of the king's person or government was made treason; and, as judges and juries were then constituted, any words spoken to the dishonour of the king's religion might have been comprehended within the scope and purview of the statute. This monstrous innovation was strongly opposed by Maynard, who, in a speech of convincing eloquence, showed the injustice of making words treason:—

"They were often ill-heard and ill-understood, and were apt to be misrecited by a very small variation: men in passion or in drink might say things they never intended, therefore he hoped they would keep to the law of 25th Edward III., by which an overt act was made the necessary proof of ill intention. When others insisted that 'out of the abundance of the heart the mouth spake,' he brought the instance of our Saviour's words, 'Destroy this temple, &c.,' and showed how near *the* temple was to *this* temple, pronouncing it in Syriac, so that the difference was almost imperceptible. There was nothing more innocent than these words as our Saviour meant and spoke them, but nothing more criminal than the setting on a multitude to destroy the temple." "This," says Burnet, "made some impression at that time. But if the Duke of Monmouth's landing had not brought the session to an early conclusion, that bill would certainly have passed."

Sir John Maynard is entitled to the gratitude of his countrymen for averting a sanguinary enactment, which none but those whose lot was cast on evil days could have dreamt of being proposed seriously, and he deserves the especial remembrance of his learned friends for quoting the Syriac in the original, a branch of black letter lore with which no gentleman of the long robe is expected to be very familiar. On the welcome arrival of King William, the veteran of eighty-five hastened to court, and graced his audience with a repartee, perhaps the best known in our language, which proved that his learning was not superior to his wit. We repeat it for the sake of adding Swift's caustic comment: "The Prince of

Orange, who could not avoid noticing his great age, remarked, with his natural brusqueness, and with as little expectation of making, as of eliciting, a compliment: 'You must have outlived all the lawyers of your time.' 'Yes,' replied the ready-witted advocate, 'and I should have outlived the law itself but for the coming of your highness!'" Swift margined this note on his speech, proving oddly enough his tacit admiration of its cleverness:—"He was an old rogue for all that." But, however happy the reply, the octogenarian could scarcely have expected in his waking dreams to have been placed "in his reverence and his chair days" at the head of the law. Few members of the profession will acquiesce in the propriety of the American regulation that all judges must resign their seats at sixty, but none can approve the precedent of selecting a common lawyer of such an extreme age to be first commissioner of the great seal.

But such was the anxiety of the new government to multiply places and pensions, that all offices which could by possibility be divided were distributed to different hands, and, accordingly, the custody of the great seal was put into commission, and intrusted to the care of Sir John Maynard, Sir Anthony Keck, and Sir William Rawlinson. For three months he tottered down to the Court of Chancery, and then resigned its too onerous duties to Sir John Trevor. His active services to the new government in the Convention Parliament had certainly deserved high rewards, but they might have been paid in a more suitable form. In the Convention and first Parliament that succeeded (to both of which he was returned for Plymouth without opposition), he betrayed no want of

energy, but entered into the debates with all the vigour of manhood. He was named at the head of five eminent lawyers, Holt, Pollexfen, Bradford, and Atkinson, to assist the Lords in their consultations, and to explain to them the laws and constitution of the realm in the room of the judges, who were either absent from London or unworthy of the trust, and took the lead in the celebrated conference between the Lords and Commons, upon the propriety of the word Abdication. It is to be hoped that the reporter has been more guilty than the speaker of the strange rhetoric attributed to him:—

"My lords, when there is a present defect of one to exercise the administration of the government, I conceive the declaring a vacancy and provision of a supply for it can never make the crown elective. If the attempting the utter destruction of the subject and subversion of the constitution be not as much an abdication as the attempting of a father to cut his son's throat, I know not what is. It is not that the Commons do say the crown of England is always and perpetually elective, but it is more necessary that there be a supply, when there is a defect, and the doing of that will be no alteration of the monarchy from a successive one to an elective."

In the keen dialogue which ensued between the managers of the conference, it would appear that Lord Pembroke had the advantage of the lawyer, notwithstanding his doctrine of descent, and analogies from the Old Bailey.

Pembroke. "If there be a doubtful title (that is dubious in whom the title resides, but a certain title as to some one), and I cannot directly name him that hath the immediate right, yet it is sufficient to prevent

the vacancy, that there is an heir or successor, let him be who he will."

Maynard. "But your Lordship will neither agree it is vacant, nor tell us how it is full. King James is gone, we hear or know of no other; what shall the nation do in this uncertainty? When will you tell us who is king, if King James be not? Shall we everlastingly be in this doubtful condition?"

Pembroke. "Sure, Mr. Serjeant Maynard, you will agree there is one, and no more than one, to whom a right does belong of succeeding, upon failure of King James. Has he no heir known?"

Maynard. "I say no man can be his heir while he lives. If he has any, it is *in nubibus;* our law knows none; and what shall we do till he be dead? It cannot descend till then."

Pembroke. "You agree that, notwithstanding King Charles II. was abroad at his father's death, and did not actually exercise the government, yet in law, immediately upon his father's decease, he was not the less heir for that, nor was the throne vacant."

Maynard. "That is not like this case, because the descent was legally immediate; but there can be no such thing during King James's life as an hereditary descent; so that either here must be an everlasting war entailed upon us, his title continuing, and we opposing his return to the exercise of the government, or we have no government, for want of a legal descent and succession. Pray, my lords, consider the condition of the nation till there be a government; no law can be executed, no debts can be compelled to be paid, no offences can be punished, no one can tell what to do to obtain his right or defend himself from wrong. You still say the throne is not void, and yet you will

not tell us who fills it! If once you will agree that the throne is vacant, it will then come orderly in debate how it should, according to our law, be filled?"

In the debate on the state of the nation, the old serjeant showed how strong the Presbyterian leaven was still within him, stirring up his hatred to Roman Catholics and jealousy of the clergy. "There is no Popish prince in Europe but would destroy all Protestants, as in Spain, France, and Hungary; and in Spain they destroyed a gallant young prince (Don Carlos) whom they suspected to incline to the Protestants; and now they would make Magdalen College a new St. Omers."

The ruling passion was strong in death. The aged puritan railed at the papists with his last breath, and willed away all his personalty from his young wife, his third wife by the way, and whose marriage settlement he had rendered nugatory by what he deemed a clever trick. Of a lawyer, so astute, so erudité, and venerable, of a man so crafty, truckling, and mean, it is easier to speak with levity than to mention him in terms of respect or esteem. He narrowly escaped the name of a pettifogger by the extent of his learning and his length of service.

CHAPTER XI.

THE "gentle Somers," though far from being

That faultless monster which the world ne'er saw,"

was one of the most incorrupt statesmen and patriotic lawyers whom this country, rich in greatness, ever nurtured. His father did not spring "from the dregs of the people," as the scurrilous Swift asserted, but was a respectable attorney at Worcester.[a] He is termed indeed by the same prejudiced authority "a great rogue;" but his chief demerits appear to have been that he had commanded a troop of horse in Cromwell's army and was parent to the whig chancellor. The old house in which he was born had been inhabited by one branch of the Somers family from the time of the Tudors, and known by the name of the White Ladies, from its site being that of some ancient monastery. It had sheltered Queen Elizabeth in her royal progress, and Charles II. just before the battle of Worcester, at which disastrous period to royalty, the autumn of 1651, is dated the birth of John Somers. Under this ample roof-tree several families with whom the Somers had intermarried, the Cookseys and Foleys, lived sociably together. Here too came on repeated visits the young Earl of Shrewsbury (the elder Somers was receiver of his

[a] Cooksey's Life of Lord Somers.

estates), and grew up the warm friend of his son. The patronage of this wavering but amiable nobleman exercised through life a favourable influence on his fortunes. He was educated at a private school in Staffordshire, and is described to have been there a youth without "outleaps, a cold-blooded boy," who loved to be with his books at play-hours.

A manuscript, formerly in the possession of Dr. Birch, says, "The account of his behaviour at school I had many years ago from a school-fellow. I think Walsall was the place; they learned their grammar together; I remember very well his account of Johnny Somers being a weakly boy, wearing a black cap, and never so much as looking on when they were at play." This precocious gravity Somers shared with the late Dr. Parr, who diversified his studies—"the boy is father to the man"—with preaching in his shirt thrown over the boy's jacket. At the late age of twenty-one he took up his residence as gentleman commoner at Trinity College, Oxford, destined, a generation later, to be the college of the great Chatham, and cultivated there that love of classical literature which he preserved in all its freshness amid an ungenial atmosphere, the gloomy chambers of the Middle Temple, and after his call to the bar. Politics, as well as literature, diversified his legal studies.

In behalf of those leaders of opposition to whom Shrewsbury introduced his young friend, Lords Shaftesbury and Russell, Sir William Temple, and Algernon Sidney, Somers adventured his first essays as an author. He composed the greater part of the celebrated "Answer to the Declaration of Charles the Second on Dissolving his Last Parliament," and revised several state papers and pamphlets ascribed to Sidney.

Provided with a handsome competency, independent of his profession, he was early distinguished for his generous and discriminating patronage of literature. We are told of his contributing one hundred pounds to the repair of the college chapel, and taking an active part in the publication of Milton's Paradise Lost, in folio; that he was strenuous in obtaining subscriptions, and recommending the poem to general notice. His own stray contributions to verse deserve the praise of ease and elegance, and are far superior to the uncouth attempts at rhyme of those great statesmen and lawyers, Lord Clarendon, Sir Christopher Hatton, and Sir Matthew Hale, who loved the muses truly much better than the muses loved them. When "a mob of gentlemen," as they termed themselves, undertook to translate Plutarch; they solicited Somers's assistance, and he favoured them with a spirited translation of the Life of Alcibiades, the character which Lord Bolingbroke afterwards piqued himself so much on resembling. He also translated several epistles from Ovid.

Yet, in the midst of these and other less intellectual dissipations, he did not neglect law. In 1683, he appeared as counsel for Pilkington, the unlucky ex-sheriff of London, who was cast in the heaviest damages ever recorded, £100,000, and had Joseph Jekyll, who afterwards married his sister, for a junior. At this period, we are assured, he was realizing £700 a-year, though we cannot but suspect some exaggeration, for he had not acquired rank, and was scarcely known. The proverbial slowness of professional advancement was exemplified in his case, notwithstanding his legal and political connexions; and, on the trial of the Seven Bishops, when his name had been sug-

gested as junior counsel, the right reverend prelates objected to one so young and so little known. Somers was then thirty-seven, a juvenile and somewhat premature age in that late-flowering profession. Lord Kenyon, commending a learned junior of forty-eight, spoke of him as "a rising young man." To the honour of the puzzle-pated Serjeant Pollexfen, who will be remembered for his discerning patronage more than for his black-letter law, he persisted in having Somers retained; and his speech, for simple and well-reasoned eloquence, bears a most favourable comparison with those which preceded it. His arguments were in truth geometrical stairs supporting each other,[b] and the peroration especially has obtained, as it deserves, universal admiration:—

"My lords, as to the matters of fact alleged in the petition, that they are perfectly true we have shown by the journals of both Houses. In every one of those years which are mentioned in the petition, this power was considered by parliament, and, upon debate, declared to be contrary to law. There could be then no design to diminish the prerogative, for the king has no such prerogative. Seditious, my lords, it could not be, nor could it possibly stir up sedition in the minds of the people, because it was presented to the king in private and alone. False it could not be, for the matter of it was true. There could be nothing of malice, for the occasion was not sought, but the thing was pressed upon them. And a libel it could not be, because the intent was innocent, and they kept within the bounds set up by the law, that gives the subject leave to apply to his prince by petition, when he is aggrieved."[c]

The flower of England's chivalry, her proudest

[b] Granger. [c] Phillipps's State Trials.

peers and most distinguished commoners, were present to hear and applaud this noble specimen of well-reasoned eloquence. The genius of the pleader wanted only an opportunity, his oratory required but a fitting theme and audience; to be appreciated was but to be known. From that day Somers stood forward in the character in which Sunderland afterwards described him to the king, [d] as "the life, the soul, the spirit, of his party." The best form of whiggery, its maintenance of tempered liberty, religious freedom, and gradual amelioration, most accorded with his judgment and taste. Returned to the Convention for his native city, Worcester, he was chosen to be one of the managers of the conference with the Lords, when they would have substituted an amendment to the resolution of the Commons that the king had deserted the throne instead of abdicated, the word which Somers had happily suggested, as one of doubtful import, likely to reconcile jarring opinions, and to soothe uneasy consciences. Some admirers of this great statesman have expressed disappointment at this argument turning so much on the niceties of verbal criticism. He cited jurists and lexicographers, Grotius, Budæus, and the Code, to prove that desertion was an abandonment, admitting the right to return and assume—abdication, an absolute irrevocable renunciation, and therefore the more proper word, first, as a consequence from the king's violation of the original contract, which the Lords had voted; next, as effectually shutting out King James, which object the Lords professed. He maintained that the non-use of the term "abdication" in the law-books was no objection, for it was a word of known signification used by the best authors, and neither was the word desertion known to the common law.

[d] Shrewsbury Correspondence.

In persuading the Commons to adopt this resolution he laid down the proposition boldly, that the king's going to a foreign power, and casting himself into his hands, absolved the people from their allegiance.[e] He compared the case to that of Sigismund, king of Sweden, who changed his religion, and, when he had withdrawn from the kingdom, was voted by their parliament to have forfeited the crown. The orator then reminded the House of the imprecation of King James I., that if his posterity were not protestant, he prayed God to take them from the throne, and carried the vote of abdication without a division. His own notes, taken in pencil, form almost the only record of that most interesting debate. "The dispute about the words abdicate or desert," says Bolingbroke, "might have been expected in some assembly of pedants, where young students exercised themselves in disputation; but not in such an august assembly as this, of the Lords and Commons in solemn conference upon the most important occasion." But it should be remembered that this discussion was in the nature of a feigned issue, and that matters of the greatest moment lay concealed under disputes about words.

The king had sufficient sagacity to reward this able champion of his crown with the office of solicitor-general, to the surprise and discontent of older lawyers, Sawyer, Pollexfen, Williams, and other rivals, none of whom could bear a comparison in consistency and moral worth. Unfortunately, careless of his fame as an orator, he has left no permanent memorial of his exertions in the House, but appears to have been a frequent speaker. The reports give little more than the name, mere fleshless skeletons of what, under his

plastic hand, must have been moulded to grace and beauty. His spirited interposition and influence over a critical debate are thus recorded by Burnet.[f] "One of them questioned the legality of the Convention, since it was not summoned by writ. Somers, then solicitor-general, answered this with great spirit. He said if that was not a legal parliament they, who were then met, and who had taken the oaths enacted by that parliament, were guilty of high treason. The laws repealed by it were still in force; so they must presently return to King James. All the money levied, collected, and paid by virtue of the acts of that parliament made every one that was concerned in it highly criminal. This he spoke with much zeal and such an ascendency of authority that none were prepared to answer it. So the bill passed without any more opposition. This was a great service done in a very critical time, and contributed not a little to raise Somers's character."

Of the jealousy with which the baffled jacobites regarded their arch-enemy, a curious instance is given in Ralph.[g] Being chairman of a committee of ways and means, and obliged as attorney-general to attend the Lords, on occasion of the million-annuity bill, they caused him to be sent for out of the chair, and as he had offended one House by suffering them to wait for him, so he offended the other as much by obeying that summons rather too abruptly, and breaking up the committee without a due regard to the usual forms. Such are the petty courses of resentment with which faction fastens on the great.

In 1693 Somers was appointed lord keeper, but not ennobled, partly from his own indifference to title,

[f] Memoirs, vol iii. [g] Ralph's History of England.

and partly by the king's parsimony, which reserved its grants and honours for his own countrymen, or grasping courtiers of more congenial humours and less cultivated tastes. Sir John Somers had been disappointed in a contemplated marriage, and disregarded a title which he could not transmit. A peerage was, in 1695, urgently pressed upon his acceptance, and the Duke of Shrewsbury wrote to his friend, "You should accept the title. I have used all the arguments I have already, and by your objections you may give me leave to tell you, that you are as peevish and unreasonable with too much modesty, as some are with too much ambition." His modest friend did not acquiesce however for two years, when he was reluctantly created Baron of Evesham, and promoted to the rank of lord chancellor. In this office he has borne a high and stainless reputation, but the period during which he held the seals was too short to enable him to be classed with Northington, Hardwicke, or Eldon. His judgment on the celebrated Bankers' case, in collecting books and manuscripts for which he is said to have expended more than £1,000, has been always considered by lawyers one of the most elaborate judicial arguments ever delivered in Westminster Hall.

The history of the case was shortly this. The king's revenue had been farmed out under Charles II. to bankers, to whom he allowed eight or ten per cent. for advancing the money before the taxes were received. Suddenly, without notice, the exchequer was shut and all payments stopped, a measure equivalent to the seizing a million and a half of other men's money. When the king had committed this tyrannical fraud, and grasped the deposits of the leading London bankers, he granted to their clamours, in lieu of prin-

cipal, dividends out of the hereditary excise, equal to six per cent. interest on their several debts. The payments, never punctual, having fallen during the late distracted times into arrear, the creditors sought to enforce their claims by petition to the barons of the exchequer. The barons were unanimous in their opinion that the remedy by petition was proper, and that the grant from the excise was good. On appeal to the exchequer chamber, Chief Justice Treby stood alone in his judgment that the barons had no authority to make orders for payment on the receipt of the exchequer. His opinion was adopted and enforced by the Lord Keeper Somers, to whom, and the lord high treasurer, whose office was at that time in abeyance, there lay an appeal. He submitted his doubts whether he should decide according to his own opinion, or in conformity with that of the majority of the judges, to their determination, and they decided, seven against three, that he should consult his own judgment. Taking the same view of his duty, Lord Somers reversed the judgment of the exchequer. The case was afterwards carried into the House of Lords, who reversed the decision of the chancellor. But, though not supported by the highest court, it is far from clear that the chancellor's judgment was erroneous, or his principle of law unsound, the court of the last resort sometimes permitting considerations of expediency, or hardship, or abstract justice, or even, on rare occasions, political favour, to influence their votes. The love of justice was kindled assuredly by party heat. The opposition peers cheered Chief Justice Holt in his argument on a grave law point with a heartiness which the merits of the case or the force of his reasoning could not have elicited, and the decision formed a sub-

ject of malicious triumph. "Downright Shippen," in verses upon which a spirit of bitterness is better stamped than the metre, writes of the discomfited chancellor as

> "A shallow statesman;
> An unjust judge, and blemish of the mace—
> Witness the bankers' long depending case."

During his four years of office he contrived to do his country good service in the cabinet as well as in court. His views of reform embraced a wider expanse than was then usually taken. Burnet informs us how valuable his counsels would have been on the currency question, had they not appeared too daring to the more narrow spirits with whom he was "cabined and confined."

Somers proposed what would have put an end to clipping the coin, "that a proclamation should be prepared, with such secrecy as to be published all over England the same day, ordering money to pass only by weight; but that at the same time, during three or four days after the proclamation, all persons in every county that had money, should bring it in to be told and weighed, and the difference was to be registered, and the money to be sealed up to the end of the time given, and then to be restored to the owners, and an assurance was to be given that this deficiency in weight should be laid before the parliament to be supplied another way, and to be allowed them in the following taxes. The king liked this proposition, but all the rest of the council were against it, fearing mutiny. It would have saved the nation above a million of money. Clipping went on, all people believing parliament would receive the clipt money in its tale."

In all those practical duties of statesmanship which fall to the lot of the chancellor, his versatile talents for business proved him thoroughly proficient. "It is not the least of his excellencies," says the honest chronicler, Ralph,[h] "that, in point of address, whether advising as a minister, or standing in the circle as courtier, presiding in the House of Lords as speaker, conferring or altercating with foreign ministers, giving audience and despatch to suitors, or doing the honours of his table, where he 'became all things to all men,' he was the most extraordinary man of his times."

Mackey, in his sketch of the leading characters of the court of Great Britain, drawn for the information of the Princess Sophia of Hanover, bears a similar testimony to his Proteus-like power, and adds a personal description, which, as it could not fail to please the German court, may not prove uninteresting to the reader. "He has gained such a reputation of honesty with the majority of the people of England, that it may be said, very few ministers in any reign ever had so many friends in the House of Commons. He can go into the city, and on his bare word gain so much credit of the public. He gives entertainments to foreign ministers more like one always bred up in a court than at a bar. He is of grave deportment, easy and free in conversation, something of a libertine, of a middle stature, brown complexion." It would have been well for the king if he had sufficiently appreciated the value of his able servant, and not, in exposing him to a forlorn hope, have exacted a proof of his loyal devotion injurious to both.

It would have been well also, for the country and the chancellor's untarnished name, had he shown a

[h] History of England.

less prompt obedience to the command of his sovereign; but that firmness which had withstood the storm, melted in the sunshine, and having once suggested what was right, he did not think himself obliged to resist what was wrong, at least in such points as the king had set his heart upon.[1] The courtier was too hard for the patriot, and he who had pleaded so strongly for the right of resistance, acted as if resignation and compliance were indispensable duties. Maladroit in the arts of diplomacy, King William sought to wean the French monarch by concession from grasping the whole of the Spanish inheritance, and to profit by a partition treaty from the spoils of that unwieldy empire. He deluded himself with the notion that partition treaties would produce a more favourable dismemberment of Spain than even successful war, and wrote to his chancellor from Loo for powers under the great seal to treat with the French ambassador leaving blanks for names. The request of advice which accompanied this unconstitutional demand, was a mere unmeaning compliment, as the impatient king concluded the treaty four days after his letter had been sent. Lord Somers should have at once refused to incur such a fearful responsibility, but the natural reluctance to thwart his royal master in a scheme of darling policy, which, however venturous, might at the time appear the best alternative to preserve the peace of Europe, prevailed over his constitutional principles.

The treaty, treacherously divulged, unfortunate in its result, and generally unpopular, raised a storm of obloquy against the king which he could only avert by sacrificing the keeper of his conscience. Irritated

[1] Ralph's History.

by the disasters of the session, and eager, like some uneasy patient to change his physician,[k] he requested Lord Somers to resign the seals voluntarily, and, when his faithful councillor refused with firmness, sent him a formal dismissal under the great seal. To his brother peers, when the partition treaty came under discussion, he gave so clear an account of his own share and responsibility, that they proved their approbation, according to the testimony of Tindall, by shouts of applause louder and longer than had ever been heard there before.

A less favourable hearing awaited the noble defendant in the hostile audience, which then crowded the ministerial benches of the lower house. Having learned that they were discussing the question of his impeachment, he adopted a course for which there were several precedents, both in this and the preceding reigns—that of the Duke of Leeds was the last—and requested to be heard in his vindication. A chair was immediately placed for the now unpopular peer within the bar, on which he sat for a moment and then spoke with persuasive eloquence and candour. He considered the letter a warrant in effect, though not in form, and, rather than endanger a most important treaty, at a very critical time, hazarded readily his own personal safety. He had objected to many particulars in a letter to his majesty. As a privy councillor he had offered the sovereign his best advice, and as chancellor had executed a ministerial task according to his duty.

Of the success of his defence we have conflicting evidence, tinged with the party views of the narrators.

[k] Trevor's Life of William III.

[l] Tindal's Continuation of Rapin.

Burnet relates that "his defence was so full and clear that if the question had been put immediately on his withdrawal, the prosecution would have failed." Lord Dartmouth, on the contrary, a high tory, says, "I never saw that house in so great a flame, as they were upon his withdrawing. He justified his putting the great seal to a blank commission so poorly, and insisted that the king's letter which he produced was a good warrant, which every body knew to be none, nor did the contents sufficiently justify him, if it had been any, and his endeavouring to throw every thing upon the king, provoked them to such a degree, that he left them in a much worse disposition to himself than he found them; and I heard many of his best friends say they heartily wished he had never come thither." The historian and his hostile commentator speak, no doubt, according to their own conviction, and most various was probably the effect of the orator's rhetoric on an excited popular audience; but, as the discussion was prolonged till past midnight, and the vote of impeachment then only carried by a majority of 198 to 188, there can be little doubt that his address made a favourable impression on the moderate portion of his audience. An artful question of the speaker, put according to a previous resolution at the close of his speech, "Who had informed him that there was a debate in the House about him?" was repelled by the ex-chancellor, with a spirit worthy of his name. "He was strangely surprised at a question that he never knew was put to any man who came to desire the favour of being heard, and if that question was asked to bring the least prejudice to any man in England, he would not only be content to lie under the censure of the House, but suffer the worst thing

that might befal him upon earth, rather than do such a dishonest thing." He then withdrew, but came back immediately, and desired to leave with the House the king's letter to him and the copy of his answer, which he acquainted the House, he had leave to lay before them.

An extract from this letter, "I suppose your majesty will not think it proper to name commissioners that are not English or naturalized in an affair of this nature," betrays his dislike of foreign favourites. His act in affixing the great seal to blank forms, both in the power to treat and in the ratification, has been deservedly censured by Lord Hardwicke and ought not to exempt the minister from responsibility. But that his error deserved to be visited with impeachment no constitutional historian will allow. Another of the articles with which his enemies sought to eke out their accusation was, their imputing to the late chancellor's connivance the piracies of Captain Kidd. This plausible buccaneer had been entrusted with the command of a vessel through the influence of Lord Somers and Lord Halifax, who designed to put down piracy in that part of the world, to cruize in the West Indies. His valour was better known than his integrity, and he seized the opportunity to turn pirate himself. All that affected the chancellor in his perfidy was fairly enough confessed by himself in his letter to the Duke of Shrewsbury: "As to Kidd's business, we hope there can be no blame, though perhaps we may appear somewhat ridiculous."

His noble correspondent exclaims, with just indignation on learning his unworthy treatment, "I wonder that man can be found in England, who has bread, that will be concerned in public business. Had I a

son, I would sooner breed him a cobbler than a courtier, and a hangman than a statesman!" Such was the natural reflection of the noble; equally in character was the conduct of the base! The creeping things after their kind crawled out with libels and lampoons on the impeached ex-minister. Dr. Davenant, in his discourse of private men's duty in the administration of public affairs, had a fling at his rapacity: "If a lawyer from £300 a year in estate and practice both together comes to have a good £6000 a year, is he to rest there? No, let him think of doubling that estate, and to be made an earl!"

As the day of trial approached, the libeller redoubled his venom. "Dr. Davenant," Prior writes in one of his lively letters, "is coming out with another book, and, as I am told, very scurrilous upon my lord chancellor. I must congratulate your happiness," he writes to the Duke of Manchester, then ambassador at Paris, "that you are out of this noise and tumult, where we are tearing and destroying every man his neighbour. To-morrow is the great day, when we expect my lord chancellor will be fallen upon, though, God knows what crime he is guilty of but that of being a very great man and a wise and upright judge! Thus every day a minister, till at last we reach the king."

But the plot failed for want of materials. The vindictive Commons, unable to maintain their accusation, eagerly caught at a ground of quarrel with the Lords on account of some sharp words spoken at a conference by Lord Haversham, demanded reparation for the scandal, and, no explanation which they would allow to be satisfactory being given, voted, with convenient anger, that justice was denied by the Lords,

and made an order that no member of their House should presume to appear at the pretended trial of Lord Somers,[m] the first on the list of the impeached peers. As no prosecutor appeared, they were of course declared not guilty, and Lord Somers withdrew for a season to the enjoyments of rest and literature. This rest was absolutely necessary for the restoration of his shattered constitution. His letter to the king from Tunbridge gives a sorry report of his health; and in the previous year there is a report in the correspondence of the day, "The chancellor has lost his fever, but has fallen into the jaundice." To soothe a mind that could not brook total absence of occupation, he frequently took the chair of the Royal Society, of which he had been two years before elected president, and, after holding the distinguished post five years, resigned it to an admirable successor, Sir Isaac Newton. His literary pursuits were soon interrupted. In 1701 he was requested by Lord Sunderland, at the pressing instance of the king, to accept the post of head of the government, but declined the responsibility, not yet assured of the firmness of the sovereign. It is related by Coke, that, in an interview with William, Lord Somers objected that he might relapse into toryism, upon which the king, leaning with his elbow on the table said emphatically, "Never, never!" By the advice of his faithful councillor, he dissolved the impeaching parliament, and addressed the new House of Commons in a speech composed by Somers, the original of which Lord Hardwicke saw in his own handwriting. It was the last speech of William, the most eloquent and popular, perhaps, that ever proceeded from the throne; a simple but stirring appeal to parliament and the

[m] Coke's Detection of the Court of England.

nation against the ambitious arrogance of the French monarch, who had dared to taunt the whole people of England, by proclaiming the son of James the Second their king.

"You have yet an opportunity, by God's blessing, to secure to you and your posterity the quiet enjoyment of your religion and liberties, if you are not wanting to yourselves, but will exert the ancient vigour of the English nation; but I tell you plainly my opinion is, if you do not lay hold on this occasion you have no reason to hope for another.—Gentlemen of the House of Commons, I do recommend these matters to you with that concern and earnestness which their importance requires. At the same time, I cannot but press you to take care of the public credit, which cannot be preserved but by keeping sacred that maxim, that they shall never be losers who trust to a parliamentary security."

The House responded with alacrity, and the people were drawing nearer to their king; he had never before such a chance of extensive popularity, when death struck down his hopes. The memorable speech was preserved as a relic, was circulated, we are assured, even to remote towns and villages, and framed and glazed in homage to his memory. The national loss became heightened by the dismissal of Lord Somers from the privy council. He was obnoxious to the queen's husband from misrepresentation, and probably from a jealous sense of his own inferiority: the illustrious by worth could scarcely fail to excite the spleen of one who was utterly inefficient, and illustrious only by courtesy. During his lifetime, the first six years of Queen Anne, Lord Somers continued in a private station. But, fortunately for

the nation, his spirit inspired in secret the councils of government and the deliberations of the House of Lords. During the hot disputes and fierce jealousies of the two Houses upon the extent of their respective privileges, which threatened at one time to disturb the equipoise of our constitution, Lord Somers contended successfully for the independence of his order, and subdued the angry pretensions of the Lower House with the weight of reasoning, and superiority of legislative wisdom. Against a pernicious measure, —the bill for abolishing occasional conformity,—he inveighed with such effect as to crush the scheme, but at the hazard of life, being seized with severe illness from his over-wrought exertions.

In 1705 he saw his labours crowned with success in the completion of the Union with Scotland, the accomplishment of which statesman-like measure is mainly due to his persuasive power over the Scottish lords, and his comprehensive policy. Setting a praiseworthy example to future ex-chancellors (would that the example had been followed!) he dedicated a portion of his leisure to the reform of the court of chancery. He made a motion in the House of Lords to correct some of the proceedings in common law and in chancery, that were both dilatory and very chargeable: he gained the concurrence of the lord keeper and judges, but in the House of Commons it was visible that the interests of under-officers, clerks, and attorneys, whose gains were to be lessened, were more considered than the interest of the nation. Several changes, how beneficial soever to the subject, which trenched on their profit, were left out by the Commons.[n] Thus dis-amended, his valuable bill passed.

[n] Burnet.

On the death of Prince George of Denmark in 1708, Lord Somers was called to more active usefulness, and made president of the council. The second Lord Shaftesbury, writing to a friend, shows how immediately court favour succeeded the royal widowhood.[o]

"*November* 20, 1708.

"Somers has kissed the queen's hand, though not directly as minister, pretty near it you may be sure: since at this time of mourning (and so sincere a mourner as the queen is) she hardly would see a stranger, and what is more, a man so estranged from her, and so wholly off from the court as he has been, and whom I scarcely believe she has admitted at any time to kiss her hand, he having been for certain the prince's aversion, as you may judge by those who chiefly influenced the prince, and were the violentest enemies Lord Somers had."

Bland, winning, and deferential in his manners, he appears to have rapidly conquered the prejudices of the queen, but the same gossiping letters of the Duchess of Marlborough, which relate his intimacy with her royal mistress, prove, by their ill-natured comments and sinister hints, that he could not have stood high in the good opinion of the shrewish favourite.[p] "I remember to have been at several of his conversations with Queen Anne to fill out their tea and wash their cups, and he was the chief man in promoting the Union with Scotland! One argument was, that it would shut the door to let the Pretender in, and no man in all the debates was so pressing as

[o] Lord Shaftesbury's Letters.

[p] Thompson's Correspondence of the Duchess of Marlborough.

himself to have Dr. Sacheverell tried, and one of his arguments for that was, that if they did not do it, the queen would be preached out of the throne and the nation ruined. Notwithstanding this, when the queen had a mind by her new councillors to save Dr. Sacheverell, she prevailed with Lord Somers not to go to the finishing of his trial, and the reason he gave for not doing it was, that his mother was dead, and he was so exact, that, though he could not bring her to life again, out of great decency [redacted] stay at home." There is no contending with an angry woman who confuses bread-and-butter gossip with a grave state trial, else it might have been gently intimated that the politic president of the council did not recommend a prosecution [redacted] impeachment, and that, in absenting himself [redacted] occasion of domestic bereavement as a mother's death, he consulted merely natural feelings and common decency.

But the reason of *Atossa's* rancour is disclosed in another letter to one of her confidants, Mainwayring:—

"'Tis certain, that as soon as he got into his post, to obtain which I so often urged the queen, he made his court to Abigail and very seldom came to me, and it is as true that Lord Oxford and St. John used to laugh in their cups, which came out by Duke Devonshire, that they had instructed the queen to behave so as to make Lord Somers think he should be her chief minister. She could act a part very well, when her lesson was given her, and in a little time it appeared very plain to the Duke of Marlborough and Lord Godolphin, that Somers thought of nothing so much as to flatter the queen, and went to her perpetually in private, and whatever was said to her

upon the subject that he did not like, he contrived so as to have Lords Marlborough and Godolphin do that, and when the council was entirely changed, and for shame he could not continue if the tories would have suffered him, to my certain knowledge he went o wait upon the queen at Kensington, which at that time he would not have done, if he had not thought he was much in her favour, and that some time or other he might get by it."

Though superior to such petty malice, the duke had cause for resentment of his own. Acting under the patriotic advice of the president, Lord Cowper had refused to affix his seal to the patent which the queen would have directed for making him commander of the forces for life, and the ambitious general knew to whom the cruel disappointment of his hopes was owing. Of the coldness which subsisted between the two cabinet ministers, the following letter of compliment, though turned with much elegance, furnishes pregnant proof:—

Somers to the duke, September 1709. "My lord:—Many others can make their court better, but no man living can more truly rejoice in your success, or has more heartily wished and prayed for it. I cannot but hope this last great success will quite lower the credit of those who may wish for an ill peace, and satisfy the French king at last, that he has attempted every thing possible for saving his own honour, and that it is time for him in good earnest to think of preserving France from utter ruin. I am sure your grace will omit nothing which may improve this glorious advantage. I am not so vain as to offer any poor thoughts of mine, for that purpose."[q] But, though too wise to lecture his country's Hannibal on the art of war, he suggested

[q] Coxe's Marlborough.

the best methods of supplying the sinews of warfare, and even opened up fresh paths of conquest, of which the great duke could not appreciate the value. Not even a futile article of impeachment carried sufficient force to deter the prescient statesman from those adventures to the islands in the West Indies, which afterwards proved so fertile of profit and glory to his countrymen.

In a letter to his wife the duke thus invidiously glances at the scheme: "Colonel Hunter, whom you mention for the West Indies, is a very good man; as to the expedition itself, it is impossible for me to give any judgment, but I know that my Lord Halifax and my Lord Somers, by the judgment of some merchants are made very fond of such expeditions: I do not remember any of them that has hitherto served for any thing but a pretext to plunder." It was in agitation to send Lord Somers, as lord lieutenant to Ireland, when Sacheverell's unadvised impeachment put a sudden and final period to his career of usefulness. On the 20th of September, 1710, he was commanded to resign his staff of office to the Earl of Rochester, and, with the resignation of his seat in the cabinet, retired from public life. Though he was only in his sixtieth year, the constitution of the invalid lawyer was as completely broken, as if he had exceeded the allotted space of three score years and ten. His great faculties gradually sunk from energy into torpor, and from torpor into childishness; a paralytic stroke shattered his intellectual strength, and for some years before his death he survived the powers of his mind. Still, in the midst of physical and mental weakness, bowed down by sickness and infirmity, he was looked up to as the oracle of his party—their Delphic shrine in ruins. Even when the sap was gone and the boughs

had withered, the whigs still reposed under the shadow of his name.

One or two anecdotes of his old age prove how eagerly the leaders of party had recourse to their former guide for counsel in emergency, with what earnestness they tried to collect the Sibylline leaves, parched and dewless as they were. When the bill for repealing triennial parliaments was in agitation, Dr. Friend, in a visit to Lord Townshend, informed him that Lord Somers was restored to the full possession of his reason by a fit of the gout, which suspended for a while the effects of his paralytic complaints. Lord Townshend waited on his aged friend, and asked his opinion. The venerable peer said, "You have my hearty approbation in this business. I think it will be the greatest support possible to the liberty of the country." He is reported to have shed tears when the same enthusiastic nobleman communicated to him in triumph the general sweep, which George I. proposed to make of the whole tory connexion. His cautious, somewhat timid, spirit shrunk from the danger of such extreme measures.

Speaker Onslow[1] records a meeting rather earlier in point of time, when the purity of his advice appears to have been tainted with the prejudices of faction. "There was a motion," he says, "made in 1713 by the whig lords for dissolving the union for the purpose of distressing the ministry. I had it from good authority (which he names), that at a meeting upon it at Lord Somers' house, where Sir Thomas Monroe was, nobody pressed that motion more than that noble lord. Good God!"

The consistent whig speaker, before writing his

[1] Notes to Burnet.

pious exclamation of horror at the depravity of the keen politician, should have borne in mind the date of this anecdote, should have remembered the undimmed brightness of his meridian, and made allowance for the mists which obscured his setting, and gathered still more thickly round his close.

There were spots in the sun! Insincerity, love of money, and libertinism have been laid to the charge of this really great and good man with different degrees of truth. "My Lord Somers," says the prejudiced but plain-spoken Duchess of Marlborough, "could not have supported himself so long at the head of the whigs, if he had not had good talents. But there was one thing that appeared to be a great blemish to a lord chancellor, that he lived as publicly with another man's wife as if she had been his own." Several cotemporaries hint at this licentiousness, with which his manners were tainted from an early disappointment in love. Mackey in his friendly portrait to the Princess Sophia says, "He is of a grave deportment, easy, and free in conversation, something of a libertine." "The grave Somerius," writes a collateral descendant, Cooksey, "became infected with the gallantries of a licentious court."[8] He had been disappointed in his first attachment, and renounced marriage. To this excess Mr. Cooksey attributes his frequent attacks of illness and premature decay of intellect; and, though the credit of his biography is lessened by the easy credulity with which he ascribes the authorship of the Tale of a Tub to his distinguished kinsman, the charge is too often repeated by well-informed persons not to convince the reader of its truth, and not to raise his admiration at the simplicity of Hannah More in setting up this

[8] Cooksey's Lord Somers.

libertine statesman as a faultless model for the worship of fashionable society.

The proof of his cupidity rests on evidence less convincing. "I have heard," says the Duchess of Marlborough, "but do not know the truth of that myself, that he got as much money as he could in the post of chancellor, and some grants not becoming a chancellor to have." The excellent tory gentleman Evelyn, records in his Diary, "It is certain that this chancellor was a most excellent lawyer, very learned in all polite literature, a superior pen, master of a handsome style, and of easy conversation; but he is said to make too much haste to be rich, as his predecessor and most in place in this age did to a more prodigious excess than was ever known." Lord Hardwicke justifies the conduct of the chancellor in receiving a gift of £30,000 at one time from the lavish king, and in obtaining the grants of two several manors in Sussex, by the examples of other statesmen, especially Sir Robert Walpole, and on the ground of the great officers of state being miserably underpaid. But when Lord Hardwicke takes the character of Sir Robert Walpole as the standard, he fixes upon one of a much lower grade than that by which the admirers of Lord Somers would wish to have his moral stature compared. Though free from absolute reproach for soliciting these grants, he would have stood above imputation, had he not solicited them. His pension and private fortune were sufficient to support the rank of one who studied retirement and lived without ostentation; nor can the painful suspicion his procuring those grants occasions be wholly dismissed, that the greediness, which debased Lord Verulam, may have in a slight degree sullied his incomparable successor.

The charge of insincerity is more unfounded, and rests on the partizan rancour of the Dean of St. Patrick, and the jealous gossip of the Duchess of Marlborough, whose great lord had, it would seem, been offended to the death by the patriotic firmness with which Lord Somers resisted his daring design of becoming dictator. His vindictive widow wove into her memoir every thread of scandal that could gratify her spleen against her husband's enemy. With those who had no personal reasons of quarrel, his universal courtesy might naturally create a suspicion that he was fair and false, that, in the worst sense of the apostle's precept, he was "all things to all men." He perhaps consulted the feelings of the venal throng who frequented his levee or sought his acquaintance too much, and good-naturedly left his hearers to imagine a preference which he did not feel.

So many hints of this courtier-like artifice are scattered with profusion through the writings of Swift, that Walter Scott has filled up with the name of Somers what the author left in blank. "I burnt all my lord's letters where he had used these words to me, 'all I pretend to is a great deal of sincerity,' which indeed was the chief virtue he wanted." And yet the retiring chancellor and studious statesman did not affect that enthusiastic attachment, the warmth and gaiety of heart, the abandonment of restraint, and careless, social festivity, with which St. John would attach his worshippers. Alarmed at his commanding intellect, those who paid court to Harley would complain of the chancellor's talent for finesse; annoyed with his decorous mien and conversation (for Somers respected propriety too much openly to profane it), the boon companions of Bolingbroke railed at his caution

and reserve. The reproach flung by high-flying tories at his manners, that they were cold and distant, seems inconsistent assuredly with their accusation of insincerity; yet we find it hazarded with the same bitterness, and as little based on truth. Arthur Maynwaring, literary toady to the Duchess of Marlborough, at the very time he repeats the whisper of my Lord Halifax that Somers always had a cold, reserved temper, which formerly had done great mischief to his party, admits, "I never saw any one so little reserved that was thought to be so, for, except yourself, nobody ever spoke so freely to me since I was born."

His chief crime consisted in being the Coryphœus of a party, whose apologist, as he lived in angry times, could not detect a virtue but factious virulence would contrive to spell it backwards. From what source could his mildness to opposing creeds and toleration for dissent proceed, but a lurking affection to Toland and deism? His caution was construed into fraudulent reserve, his moderation into timidity, his prudent wisdom into cunning. His regularity in business, punctuality, and despatch could originate, forsooth, in no other cause than low birth and addiction to the counter. "Have you not observed," Swift writes to Lord Bolingbroke, in a sort of flattering query, "that there is a lower kind of discretion and regularity, which seldom fails of raising men to the highest stations in the court, the church, and the law? Did you never observe one of your clerks cutting his paper with a blunt ivory knife? Did you ever know the knife to fail going the true way? Whereas if he had used a razor, or a penknife, he had odds against himself of spoiling a whole sheet. I

have twenty times compared the motion of that ivory implement to those talents that thrive best at court. Think upon Lord Bacon, Williams, Strafford, Laud, Clarendon, Shaftesbury, the last Duke of Buckingham, and, of my own acquaintance, the Earl of Oxford, yourself, all great statesmen in their several ways, and if they had not been so great, would have been less unfortunate. I remember but one exception, and that was Lord Somers, whose timorous nature, joined with the trade of a common lawyer and the consciousness of a mean extraction, had taught him the regularity of an alderman or a gentleman usher."

Shame on such odious prejudice! It has spoiled more pages in contemporary history than the sharpest penknife, though it cut ever so awry, could have done. Perhaps, in the wish to discover the strength and weakness of this great lawyer's character, to put in strong relief its depth and shadows, his biographer has dwelt too long on these rancorous effusions of jealousy and factious hate. It is pleasant to shut their pages, mildewed by prejudice and spleen, and turn over the tributes which the wise and good, both of his own and later generations, have rejoiced to render. None of these, strange to say, equal in grace and elegance, the eulogy of Swift.

He dedicates the "Tale of a Tub" with consummate address as if from the bookseller, pretending that he was going to turn over a hundred or two dedications, and transcribe an abstract to be applied to his lordship; that he met with the words "Detur dignissimo," and called at a poet's chamber, who worked for his lordship, to know who it was the author could mean. He thought himself the person aimed at: "I desired him to guess again." "Why then," said he, "it must

be I or my lord." "I found several other wits all in the same story, both of your lordship and themselves." He employs these wits to furnish him with materials —they bring him hard names of Cato and Tully, of Socrates and Epaminondas. "I expected to have heard of your lordship's bravery at the head of an army; of your undaunted courage in mounting a breach or scaling a wall; or to have heard your pedigree traced in a lineal descent from the house of Austria; or of your wonderful talent at dress and dancing; or your profound knowledge in Aquinas, metaphysics, and the oriental tongues. But to ply the world with an old beaten story of your wit and eloquence, &c., I confess I have neither conscience nor countenance to do it."

The panegyric of Addison, in the "Freeholder," seems cold and insipid, when compared with this felicitous strain of compliment, but had the merit of coming from the heart. That graceful writer dedicated his "Travels" to the same worthy patron, and from his experience on the continent, paid the following apposite tribute to his merits as a statesman: "Whatever great impressions an Englishman must have of your lordship, they who have been conversant abroad will find them still improved. It cannot but be obvious to them, that, though they see your admirers every where, they meet with very few of your well-wishers at Paris or at Rome; and I could not but observe, when I passed through most of the protestant governments in Europe, that their hopes or fears for the common cause rose or fell with your lordship's interest and authority in England." The calm judgment of posterity has confirmed what might be deemed the partial opinions of contemporaries.

Lord Mahon says, with emphatic brevity, after

considering his conduct,[t] "I know not where to find a more upright and unsullied public character than his. He had contracted nothing of the venality and baseness of the age." In this decision, the mature criticism of Mackintosh concurs,[u] "Lord Somers seems to have very nearly realized the perfect model of a wise statesman in a free community. His end was public liberty; he employed every talent and resource which were necessary for his end, and not prohibited by the rules of morality. His regulating principle was usefulness. His quiet and refined mind rather shrunk from popular applause. He preserved the most intrepid steadiness, with a disposition so mild, that his friends thought its mildness excessive, and his enemies supposed that it could be scarcely natural." With this elegant eulogy, conforms the tribute of a living statesman and intellectual whig, Lord John Russell: "Somers is a bright and a great example of a statesman who could live in times of revolution without rancour, who could hold the highest posts in a court without meanness, and who could unite mildness and charity to his opponents with the firmest attachment to the great principles of liberty, civil and religious, which he had early espoused, long promoted, and never abandoned."[w]

The poet's garland, to wreathe the brows of the literary chancellor, has been woven with less skilful hands. The prosaic truth of Blackmore, in his satire upon wit, will scarcely atone for its dulness:—

"But what remains will be so pure, 'twill bear
The examination of the most severe;
'Twill Somers' scales and Talbot's test abide,
And with their mark please all the world beside."

[t] Lord Mahon's History of England. [u] Life by his Son.
[w] Lord J. Russell's History of Europe.

The following couplet in the "Dispensary," still less corresponds with the reputation of Dr. Garth:—

> "Somers doth sick'ning equity restore,
> And helpless orphans now need weep no more."

Pope contents himself with a mere frigid mention of his name as a literary patron, and cannot even spare an epithet:—

> "The courtly Talbot, Somers, Sheffield read,
> And Buckingham, applauding, nods the head."

Waller's clever apology on another occasion must, we presume, be the reason of this coldness, "that poets always succeed better in subjects of fiction than of truth." The sacred band in the next generation extol the merits of the "gentle friend to song" with more heartiness and success. Whitehead, though not fortunate in his comparison, infused some spirit into his stanzas:—

> "Patrons and arts must live, till arts decay,
> Sacred to verse in every poet's lay;
> Thus grateful France does Richelieu's worth proclaim,
> Thus grateful Britons doat on Somers' name."

In his address to Lord Chatham upon Trinity College, Dr. Warton has dilated upon the associations of the place, in a classical strain, not altogether unworthy of the Oxford professor of poetry:—

> "In that calm bower, which nurs'd thy thoughtful youth
> In the firm precepts of Athenian truth,
> Where first the form of British liberty
> Beam'd in full radiance on thy musing eye—
> That form sublime, whose mien, with equal awe,
> In the same shade unblemish'd Somers saw."

The unblemished Somers wrote himself very good verses for a lawyer, better than Murray's, and not inferior to Charles Yorke's. The following part of

his translation of Dido's Epistle to Æneas shows his facility of metre:—

> "All day, Æneas walks before my sight,
> In all my dreams, I see him every night,
> But see him still ungrateful as before,
> And such as, if I could, I would abhor;
> But the strong flame burns on against my will,
> I call him false, yet love the traitor still."

His Latin verse was still more beautiful. These lines from his epitaph on his sister are not more perfect in sentiment than rythm:—

> "Moribus illa vultuque modesto
> Omnes callebat artes,
> Quæ virginem decebant
> Quid plura? Hìc unà jacent
> Parentum deliciæ, et decus, et dolor!"

Lord Somers, though he published many pamphlets on subjects of politics and constitutional law anonymously, never avowed any of his writings. "Prodesse quam conspici" was at once his motto and practice. He would not discover the paternity, even when an impudent pretender had laid claim to a copy of his verses, and assured the chancellor, in answer to his question, for he was naturally curious, how long the composition occupied his thoughts, "that it was a mere trifle,—he had done it off-hand." A scornful laugh, which not even Somers' good-nature could suppress, alone detected the cheat, and revealed his secret. It was only by internal evidence, and the fact of the two treatises in Lord Hardwicke's possession being entirely, with the alterations, in Somers' handwriting, that Sir Walter Scott was enabled to trace authoritatively to his authorship "the Just and Modest Vindication of the Last Parliament of Charles

the Second," and "Advice to Grand Juries," which the celebrated Dunning calls "a valuable treatise, attributed to one who not only understood the constitution but loved it."

The ninth volume of the Somers Tracts contains "Another Vindication of the Proceedings of the late Parliament of England, by John Lord Somers," in the preface to which Sir Walter Scott says, "It does not appear by what authority this piece is ascribed to him. It does not occur in Lord Somers' works given by Walpole. But in style and spirit it is not unworthy of the great name prefixed to it; and it was a point of his character to be very indifferent towards claiming the literary merit to which he was entitled. It is well known that he composed several political tracts at this important period. His pen was ready to serve the public, but with so little regard to his own peculiar fame, that we are ignorant even of the titles of many of his works." His manuscripts, which filled above sixty folio volumes, were unhappily destroyed by a fire that consumed Mr. Yorke's chambers in Lincoln's Inn, in 1752.

He left a noble library, of which a fine collection of bibles formed a large and valuable portion. For this laudable curiosity he would have been excommunicated in the dark ages, and was denounced as a Socinian and freethinker in the enlightened days of Queen Anne. He was too good a patron to literature and too earnest a friend of liberty not to oppose the Licensing Act. "His best friends," he said with epigrammatical point and terseness, "found nothing more to be praised of Trajan in his government than that, in his time, all men might think what they pleased, and every man speak what he thought." In

the year 1694, when Somers was lord keeper, the act for licensing printing presses expired, never to be renewed; and the dominion of a licenser over works of literature passed away for ever.

Lord Somers died in the summer of 1716, having long survived his mental capacity, and left no son to transmit his honours. But the friend of Tillotson, patron of Milton, counsellor of William in his best days, scarcely more distinguished for his writings in the closet than for his dissertations in the senate, the eloquent poet, the persuasive orator, the accomplished lawyer, the consummate statesman, impeached like Lord Verulam, but not like him giving just matter of impeachment, the President of the Royal Society, which has never since, though graced by princes of the blood, had one more noble from the patent of intellect—he has bequeathed his name an heirloom to his country, lasting as her literature and identified with her laws.

The monument posterity has raised to his honour is worth all the sculptured urns in Westminster Abbey—their heartfelt reverence for his sayings and acts, for his speeches full of deliberative wisdom, for his statutes of enduring equity. On that votive pillar, reared by grateful memories, are inscribed the vote of abdication of James II., the Bill of Rights, the union with Scotland, the settlement of the Protestant Succession. What statues would modern statesmen deserve, could such memorials be engraved upon their pedestals!

CHAPTER XII.

THERE were other great lawyers in the Convention Parliament, but whose names command no respectful remembrance, for they wanted integrity. Of these the most notorious are Sir Robert Sawyer and Sir William Williams. Both had been speakers of preceding parliaments, and had filled high legal offices in the two last reigns; the first being attorney-general to Charles II. and James II., and the last solicitor-general to James. Able, active, ambitious, they strayed from the broad path of duty, and in the slippery byways of promotion stumbled and fell. But they took too prominent a part in the first debates of a most important session, and held too distinguished a station both in the house and out of it, not to require a particular notice.

Sir Robert Sawyer, confessedly one of the most learned of his cotemporaries, had formed himself, we are assured, on the model of Chief Justice Hale, before whom he practised in the exchequer; but the study must have been directed to his intellectual rather than his moral qualities. "He was," says North, in his quaint style,[a] "a proper comely gentleman, inclining to the red; a good general scholar,

[a] North's Life of Lord Guildford.

and perhaps too much of that;" his bias was to loyalty, the character of his family, an inclination fostered, doubtless, and matured in the orthodox cloisters of Magdalen College, Cambridge. As early as 1666, we find, from an entry in Pepys' Diary, that he was advancing rapidly in his profession.[b] "Into the House of Lords, where a great committee. I did hear the great case against my Lord Mordaunt. Here was Mr. Sawyer, my old chamber fellow at Magdalen, a counsel against my lord, and I was glad to see him in so good play." His talents were too conspicuous to remain long concealed under a stuff gown. Returned to parliament for a close borough, he took a decisive part against the claims of the Lords in the great struggle of the Commons about appellate jurisdiction. But the pestilent atmosphere of a corrupt court was soon to wither his laurels.

In April, 1678, by the king's particular appointment, the Commons chose Mr. Sawyer their speaker, "a great practiser in the exchequer," and then adjourned for a fortnight. In a few days, however, Mr. Sawyer excused his attendance by reason of a violent fit of the stone, occasioned by his long sitting one day in the House; whereupon the old speaker, Mr. Edward Seymour, was reinstated in the chair." The court lawyer had, there is no doubt, weighty reasons for abdication.

When the voluptuous Charles began, a few years later, to act the part of a callous tyrant, he selected Sir Robert Sawyer as a fit instrument for oppressing his subjects, and made him attorney-general in the room of Sir Creswell Levinz. This vindictive situation he held from 1681 to 1687, six years stained

[b] Pepys' Diary, vol. i. [c] Echard's History.

with the blood of some of England's noblest freemen, and damning to the honest fame of the first law officer of the crown. To secure the conviction of a poor dependant on Shaftesbury, one College, nick-named the "protestant joiner," who had swelled the cry of a popish plot, and now found himself, much to his own amazement, in the meshes of a prosecution for high treason, the attorney-general, distrusting the grand jury,[d] obtained an order from the chief justice that the witnesses should be examined and the indictment disposed of in open court. His illegal artifice failed, and the grand jury ignored the bill, but the destined victim was not permitted to escape. Being charged with treasons committed in Oxfordshire as well as Middlesex, he was again put on his trial, and, through the medium of a more courtly and better packed jury, was sacrificed for the sins of his party. In the sanguinary year 1683, Sir Robert Sawyer hunted to the death nobler victims, Lord William Russell and Algernon Sidney, straining the arbitrary powers of his office with merciless rigour, and, as a worthy successor of Coke, taunting his unhappy prisoners. He opposed the noble lord's wish for a postponement to the afternoon, in consequence of a mistake in furnishing the names of the jury. "You," he rejoined to Lord Russell, "would not have given the king an hour's notice for saving his life." The trial of that virtuous peer was, however, among the fairest of those cruel times, though a passage from Echard shows the spirit with which it was conducted.[e] "When Lord Russell asserted that the business at Sheppard's house was sworn to only by one witness, it was answered, that if there was one witness of one act of treason,

[d] State Trials, vol. ix. [e] Echard's History.

and another of a second, that manifested the same treason, it was sufficient."

"The attorney-general," says a prejudiced party writer,[f] "and Sir George Jeffries made a home thrust at the prisoner. The former said, 'Your lordship remembers in my Lord Strafford's case there was but one witness to one act in England, and another to another in France, and the latter said there was not so much evidence against him as against your lordship.' Home thrusts certainly, but made with poisoned weapons! When on the infamous trial of Sidney, Lord Howard of Escrick, "that monster of a man," had finished his treacherous evidence, and, in reply to a question of the chief justice, Colonel Sidney answered with emphatic scorn that he had nothing to ask, the attorney-general broke in with a scurrilous gibe, "Silence, you know the proverb."[g] His mode of proving a second overt act of treason by a treatise found in Sidney's cabinet, by whom written and when written left in doubt, was also a memorable iniquity, and fully justifies the reversal in parliament of his attainder. On Hampden's trial for a misdemeanor, when his counsel challenged a juror, because he had an office under the crown, and was, therefore, not indifferent, contending that it had been held a good cause of challenge in Coke, the attorney-general made a futile attempt to disparage a legal authority still higher than his own. "How many hundred errors," he asked scoffingly, "do you find in my Lord Coke, notwithstanding all his learning? It is an opinion in a straggling book."[h]

But the act which more exclusively brands his

[f] North's Lord Keeper Guildford. [g] Phillipps's State Trials.
[h] Hargrave's State Trials, vol. x.

memory, and for which he afterwards justly suffered, was his share in that legal murder, the condemnation of Sir Thomas Armstrong[1]. This unhappy man had fled to Holland to escape a prosecution for treason, was outlawed, and seized at Leyden by virtue of a warrant from the States for a reward of 5,000 guilders. In his confusion at the moment, he forgot to claim protection as a native, and was hurried off to England. When he was brought up in custody to the King's Bench, the attorney-general moved for an award of execution upon the statute 6 Edward VI., which, however, contained a clause permitting a person outlawed to purge himself of his outlawry, and claim the benefit of a trial by rendering himself within a year. In his case there were several months of the year since his outlawry yet to run.

Sir Robert Sawyer drew a subtle distinction, to which the court joyfully assented, that the prisoner had not surrendered, he was taken; he had not rendered himself, but was brought in custody, and therefore could not claim the benefit of the statute. In vain the prisoner urged that he might have rendered himself, and come over voluntarily to claim the benefit of the act, the allotted year of grace not having expired.

A vindictive tribunal soon arrived at a foregone conclusion, and Sir Thomas Armstrong was quibbled out of his life. "He was murdered," says Burnet, "for having been the favourite of the Duke of Monmouth." The guilt seems to have been almost equally divided between the attorney-general, who demanded judgment, the Chief Justice Jeffries who tried, and the Lord Keeper North, to whom applica-

[1] Sir J. Hawles' Remarks on the Trial.

tion had been made for a writ of error. His lordship found, according to his nephew and apologist, that writs of error to reverse outlawries in treason had never been made without a warrant from the attorney-general, for it is not a writ of right but of favour. That functionary, on the other hand, denied that it was in his power to grant the writ, but the prisoner must apply to the king by petition. The whole appears to have been a nefarious juggle between the court and counsel, equally unscrupulous, and equally submissive to the beck of royalty, to destroy an obnoxious individual and presumed traitor, whom they could not legally convict.

Sir Robert continued for three years after the death of Charles II. the indefatigable instrument of his bigoted brother's tyranny, filing criminal informations for libels against the government with a rigour worthy of the Star Chamber, till at length the king's polemical madness reached a height which not even his creeping ductility could venture to gain. He was directed to draw up a warrant investing a priest of the church of Rome with a benefice by virtue of the royal prerogative, and to confirm one Walker, head of Magdalen College, together with some thirty of the fellows, who had apostatized to the Romish communion by a writ *non obstante*. The learning and orthodoxy of the attorney-general took alarm much more quickly than his conscience had done at commissions of simple cruelty. He declared that such proceedings would be against not one statute only, but against all the laws since the days of Elizabeth; that he durst not comply, and desired his majesty to weigh the matter, for that it struck at the very root of the Protestant church. The king

was obstinate to rush on his fate, and Sir Robert Sawyer, at a fortunate period for his own safety, found himself dismissed from office.

The prosecution of the seven bishops following the next summer, he was naturally selected as their leading counsel, and acquitted himself at the trial with distinguished legal ability. But, though dexterous in his points of law, and subtle in his arguments, he seems to have been sadly wanting in eloquence,—a deficiency common to the bar of his day. Nothing can be imagined more tame and jejune than the speeches then usually addressed to juries by counsel for state prisoners. They seem to move in fetters, so clumsy are their reported attempts at exciting sympathy: like mere legal machines they revolve incessantly round volumes of black letter, instead of addressing themselves with all their heart and all their soul, in plain intelligible English, to the rescue of a client trembling for his life. The spirit of Erskine had not yet descended on our courts, whose powers of speech rose no higher than their independence.

Even in these busy prosaic days, unfavourable to forensic eloquence, a reader may be tempted to smile at the following lame and impotent peroration to the ex-attorney's speech for the defence, on an occasion which, above all others, ought to have compelled a pathetic appeal, to have thrilled through every vein in his hearers, and made their hearts burn within them. "The defendants," concluded this ineloquent lawyer, "have not acted as busybodies. The other side would have this petition work by implication of law to make a libel of it, but by what I have said it will appear there was nothing of sedition, nothing of

malice, nothing of scandal in it, nothing of the salt, and vinegar, and pepper, that they have put into the case. We shall prove the matters that I have opened for our defence, and then I dare say your lordships will be of opinion we have done nothing but our duty."

Sir Robert, it may be inferred, was not deeply read in "Cicero de Oratore." He shared in the triumph that succeeded the glorious acquittal of his venerable clients, and was returned to the convention with an illustrious colleague, Sir Isaac Newton, for Cambridge University. Never, in point of intellect, could the University be better represented. From his extrinsic importance as father-in-law to Lord Pembroke, and his high legal reputation, he expected to be one of the council appointed to advise the Lords, but was rejected at the pressing instance of Lords Mordaunt and Delaware, who declared they would have none of those who had been instruments in the late reign. With the zeal of an exile from office, he inveighed bitterly against James, and, in one of the debates previous to the vote of abdication, even went the length of saying: "In all I have read, I never met in so short a reign with the laws so violated and the prerogative so stretched."

James, be it remembered, had reigned nearly four years, and till the last twelve months this virulent declaimer had been his first law officer. In committee on the state of the nation he moved that the House should vote it inconsistent with a protestant government to have a popish prince; adding the sententious apothegm: "There is a possibility that a papist may be saved, and a possibility that a popish king may govern well, but where the papists govern the king it is next to an impossibility that the government should

be protestant." He argued with much subtlety against voting the convention a parliament, and was beginning to assume such a lead in the debates, that the prospect of promotion seemed opening before him. But his rivals and enemies were eager to take advantage of former misconduct, and the lover of retributive justice must rejoice that he had laid himself open to their attacks, that the hand of the lawyer stained with blood should for once have forgot its cunning.

A petition was presented from Lady Armstrong and her daughters for annulling the attainder of Sir Thomas, and produced a long and angry debate. Mr. Hawles, afterwards solicitor-general, remarked, "how scandalous is it, when a man guilty of murder should be protected within these walls! Armstrong offered a plea, and you have voted its rejection wilful murder. Were the judges and prosecutors not guilty? They were all guilty. I am not for rigour, though blood cries for blood." Sir Wm. Williams, who had drawn the prisoners' plea, and harked on the cry for vengeance against an odious rival, said bitterly, "All is put upon the dead Chief Justice Jeffries, and the dead must answer for the dead, and the dead must bury the dead. The judges acted the part of executioners. The attorney-general, forsooth, was asleep in the court."

He made a sophistical defence. "It was not his duty to grant a writ of error. Application must be made to the king by petition, and he gives a warrant to the attorney-general to consent to it. It was the duty of his office upon outlawry brought to pray judgment of the court." After various excuses by his friends (Sir Robert had a strong party in his favour) the bill was recommitted for the purpose of examining

Mrs. Matthews, a daughter of the deceased.[k] Her evidence pressed hard upon the accused member. "I was with Sawyer," she asserted, "for a writ of error. He said 'your father must die, he must die, he is an ill man.' My mother was ready to pay him all his due fees, but he said 'he must die.' When my father was brought to the bar, the chief justice asked Sawyer whether he prayed an award of execution, which was done. My father desired that the statute of outlawries might be read, and said he thought it was plain he was come in within a year. Said Sawyer, 'Sir Thomas will not find anything in the statute to his purpose. Possibly he will say he surrendered himself to your lordship, but, Sir Thomas, you should have surrendered yourself before you went out of England.' Said the chief justice, 'we have enough against him.' Said Sawyer, 'Armstrong was active in the fire at Newmarket.'"

In answer to questions from Sir Robert, she deposed further: "I believe Sawyer said, 'It was not in his power to grant a writ of error,' and he did say, 'you must apply to the king or lord keeper by petition.' The king and duke said 'it was an impudent petition.' I cannot say Sawyer demanded execution before the judges had declared themselves."

Sir Robert, being heard in defence before he withdrew, denied the truth of what Mrs. Matthews had asserted as to their private conversation, and argued that he had done his duty and no more. "As for my management at the arraignment, it was according to my oath and duty to attend the court. Every tittle of what passed was printed in three days, and went all over England. It was not only lawful, but

[k] Parliamentary History, vol. v.

my duty to put Armstrong upon trial, to hear what he had to say to the record of outlawry, and I prayed judgment; if he had nothing to say, it was my duty to pray execution. I went no further, not a tittle, in this business. Armstrong quoted such a statute, and it was read in court. Has he rendered himself to the chief-justice? No! Armstrong said, 'I now render myself to your lordship.' This is the fact; I never argued to incline the court one way or another. When Armstrong had said he surrendered himself, I sat down and said no more."

The ex-attorney-general then withdrew. His plea of passive acquiescence, of silent connivance, did not avail, though his friend, Sir Robert Cotton, in particular, urged that he had done his duty to God, the king, and the prisoner. It was resolved, "that Sir Robert Sawyer be put into the bill of indemnity (to be excepted) as one of the prosecutors of Sir Thomas Armstrong;" and the question that he be expelled, passed in the affirmative, 131 to 71; a just retributive vote, though the flames which consumed him were fed by party heat. It would appear from a remark dropped by Hawles, that he might have prevented the petition being presented, had he consented to give the widow and daughters of the man who had been murdered under forms of law some compensation, but he preferred the displeasure of the House to parting with his money.

The indignity of expulsion was too common in those troubled times to be deeply felt. In the new parliament, which met in March, 1689-90, he was again returned, unopposed for the University, took part in several debates, was frequently heard as counsel before the House of Lords, and only arrested by death,

in 1692, from pursuing with revived strength, a career of lucre and ambition.

His rival the versatile lawyer, Wm. Williams, was the eldest son of the Rev. Hugh Williams, D.D., rector of Nantyerog, in Anglesea, and educated at Jesus College, Oxford. He went the North Wales circuit, and gained the reputation, according to Sir Peter Leicester, of being a very acute young gentleman.[1] Having danced at an assize ball with a rich heiress, the daughter of Watkin Kyffin, Esq., he obtained the young lady's consent to propose himself to her father as a suitor, and when the old gentleman asked roughly "what have you?" replied with ready boldness, "I have, Sir, a tongue and a gown!" His suit prospered, and he became by his marriage the founder of the flourishing families of Wynnstay, and Bodllewyddan and Penbedw.

Selecting the path to preferment of a political lawyer, he was chosen recorder of Chester, in 1667, and afterwards selected for one of its members. His early career in parliament, though turbulent, was not dishonourable. Rough and ready, he displayed all the unscrupulousness of a thorough partizan. When some just strictures had been hazarded against the judges in 1676, he declared that he never knew, during his eighteen years' practice in Westminster Hall, the bench better filled with judges, with men of loyalty, learning, and integrity. This eulogy was pronounced upon those pliant sages of the law who had declared the king's proclamation for shutting up the coffee-houses to be legal, because, forsooth, the act for settling the excise (in which coffee was not included) gave a power of refusing licences to such as could not find security for the payment of the duties. His

[1] Yorke's Royal Tribes of Wales.

sincere opinion of their integrity was confessed by Mr. Williams in another debate, when, to suit the argument, he stated his experience as counsel for merchants in the exchequer, where it was common to determine "what's white black, and what's black white." His promotion at the bar was slow. After twenty-one years' practice, he could spitefully reflect on the solicitor-general, and say, "Though I have not a silk gown, I am bound as much by my allegiance to preserve the prerogative of the crown." He was at that time compensated by the favour and consideration of the popular party. The drawing up of the impeachment against Lord Stafford was recommended to the care of Mr. Williams and Lord Cavendish; and, on the meeting of the new parliament in October, 1678, he was unanimously elected speaker. "Though a worthless man," says Burnet, "he was chosen speaker for his zeal." He returned thanks for his election in a speech glowing with gratitude, declaring, "that he was their own member, their own entirely, and that he expected no boon, but by their grace and favour to depart as he came, when they should please to command him."[m]

But, though obsequious to the House, "he showed a more than ordinary stiffness," when presented for the king's approval, and abstained from using the usual court excuses of unfitness or want of worth. The House was then in full cry, running down popery, and not only exercised vengeance on such members as had during the interval of parliament expressed their abhorrence of petitions, but, by a violent excess of authority, even ventured to threaten and imprison strangers wholly beyond their jurisdiction.

[m] Grey's Debates.

Sir Francis Wythens, a puisné judge, having presented an address to the king, expressing abhorrence to petition his majesty for the calling a sitting of parliament, was ordered to receive his sentence of expulsion on his knees, and was there harangued by the speaker: "You, being a lawyer, have offended against your own profession; you have offended against yourself, your own right, your own liberty, as an Englishman. This is not only a crime against the living, but a crime against those unborn. You are dismembered from this body." Sir Robert Cann having been rash enough to declare that there was no plot but a Presbyterian plot, shared the same fate; and the recorder, Jeffries, being voted a betrayer of the rights of the subject, was compelled to kneel before the speaker's vituperative eloquence. But his choicest rhetoric seemed to be reserved for Sir Robert Peyton, who had abandoned the country party, and been reconciled to the Duke of York by means of stolen interviews through the intervention of Lord Peterborough, Mrs. Collier, and Mr. Gadbury. His speech on passing sentence smacks of the Old Bailey, and deserves recording as a greater curiosity, than any choice specimen of the antique preserved in the British Museum. "Many gentlemen, whose eyes are in their heads, their tongues and eyes have moved as well as yours. You have sat betwixt the devil and the witch, Mr. Gadbury and Mrs. Collier. The dark ways you have taken show your ill designs. You have fallen from being an angel to be a devil. From the beginning you sought your own interest, to set up a commonwealth. You had 20,000 men to make your interest the stronger; you were bustling like the wind in this House and in coffee-houses. Your

county chose you to this place, not only for your interest, but for an example to other men; not with noise and thundering, but to behave yourself without vanity or ostentation. This parliament nauseates such members as you are; you are no longer a part of this noble body."

The unfortunate knight, thus bethumped with words, felt so indignant at the speaker's coarse abuse, that, immediately on the rising of parliament, he sent him a challenge. Mr. Williams, instead of expressing regret or giving satisfaction, with more prudence than gallantry, made his complaint to the privy council, and poor Sir Robert Peyton was again committed to the Tower. But, resolved to have some revenge, he published the most offensive part of the speech, with the following title-page, "A specimen of the rhetoric, candour, gravity, and ingenuity, of Mr. William Williams, speaker to the late House of Commons." A worse ebullition of temper, a more complete want of self-command, in an office, which, above all others, required dignified forbearance and severe caution, is nowhere recorded. But this elegant composition seems to have been well adapted to the rancour of the times. Not a murmur escaped the vindictive Commons against such undignified railing, and, when the parliament was dissolved, and a new one summoned to meet in the schools at Oxford, the first act of the members was to re-seat their homely speaker in the chair. He spoke with wonted audacity when presented to the king for his approval: "To manifest to your majesty and the world that they are not inclined to changes, the Commons have, with one voice, elected me their speaker."[n] Their choice was

[n] Echard's History.

ratified by Charles, though displeased with the boldness of the tone in which the customary assent had been solicited. His second harangue, in requesting for members their peculiar privileges, contains a passage highly curious, from the contrast which it presents between his real and assumed character: "I am set in the first situation of your Commons for trust and quality, a high and slippery place. It requires a steady head and well-poised body in him that will stand firm there. Uprightness is the safe posture and best policy, and shall be mine in this place, guarded with this opinion, that your majesty's service in this trust is one and the same with the service of your Commons, and that they are no more to be divided than your crown and sceptre."

Notwithstanding this rhetorical promise, an abrupt division immediately followed. Starting at once their fatal scheme of exclusion, his friends pushed the king to extremities, were ignominiously dissolved within a week, just as they had promise of removal from the confined schools to the noble theatre at Oxford, read their dissolution in the Gazette, were scattered, powerless, and at mercy. The unlucky serjeant presented a prominent and exposed mark to the vengeance of an irritated prince, who knew not how to pardon, or forget afterwards as king the injuries done to the Duke of York. He had been exasperated by the energy with which Williams had supported the Bill of Exclusion, and lay in wait for an opportunity of retaliation. The moment a detested House of Commons were broken up, he seized the occasion their violence had given to crush his defenceless enemy. A narrative of the infamous Dangerfield, showing how he had been employed by the popish

Lords to invent the Meal-tub Plot, and implicating the Duke of York, had been ordered to be printed with the votes, in November, 1680. In the strict discharge of his duty as speaker, Williams had licensed the printing of the votes, including the narrative.[o] A criminal information was filed in the King's Bench, at the command of his royal highness, for this imputed libellous publication, replete with the strongest Latin adverbs, "that it had been published by the late speaker, scandalously, seditiously, and devilishly." Williams demurred, alleging that he had acted under the express authority of the House, and that the publication must be privileged. Sir Robert Atkyns, an eminent lawyer, but who had given up practice, hastened from the country to volunteer his aid, and borrowed a gown to argue this constitutional demurrer. Judgment should have gone, and in the good times of the law would have gone, for the defendant; but what was to be expected, when the real prosecutor had succeeded to the throne, with Jeffries for chancellor and Pemberton for judge?

The corrupt Court of King's Bench, a convenient instrument of tyranny, having pronounced judgment for the prosecution, imposed the exorbitant fine of £10,000 on the defendant for acting in his ministerial character, £8,000 of which he actually paid. James the Second was huckster enough to bargain to remit the remainder, on condition of prompt payment. But even this concession he could only be induced to make by urgent entreaty, and, on yielding at length, annexed a proviso to the niggardly act of grace, most characteristic of the cunning tyrant, that nothing should be given to any of the courtiers, who had been employed

[o] The Right Hon. Ch. W. Wynn's Notes to the State Trial.

to solicit the abatement. But the speaker's persecutions were not yet over. The same licensed publication of Dangerfield, which accused the Duke of York, contained also charges against the Earl of Peterborough, and that aggrieved nobleman, to share in the spoil, brought an action of *scandalum magnatum,* in vindication of his wounded honour. The disposition of the servile court had been found so hostile to the allowance of any privilege of parliament, that it was thought most expedient to effect a compromise, and the king, who had been gratified by an early payment, interfered to induce Lord Peterborough to accept the jackall's share—a poor £150—in satisfaction of his wounded feelings. Three bills were introduced into parliament in the years 1689-90 and 95, to reverse the judgment of the King's Bench against Williams. The Bill of Rights recites, "among other endeavors of King James to subvert the laws, by prosecutions in the Court of King's Bench for matters and causes cognizable only in parliament," and refers to this case, as one of the offences by which James II. had forfeited the crown.

The House of Commons expressly declared the judgment to be illegal and subversive of the freedom of parliament.[p] It does therefore appear inconsistent that this very judgment should have been suffered to continue unreversed, and the illegal fine which had been imposed on the speaker unrepaid.

The solution of the enigma is to be found in the want of a compensation fund and the constrained economy of the times, the country groaning beneath the pressure of war taxes, and the prodigality of the royal bounty on foreign or adopted favourites. Among

[p] C. W. Wynn's Notes.

the difficulties which pressed on the new government after the Revolution, that of raising money formed the chief; and parliament, disgusted with the profusion of King William's grants, was led into the opposite extreme of parsimony, even in instances where the nation's justice called for a more liberal proceeding. We shall find in consequence no disposition to make pecuniary compensation to any of those who had suffered illegally during James's reign, unless a source independent of the public purse could be found for that purpose.

A bill to confiscate the estates of the deceased Chancellor Jeffries was brought in, and an intention avowed to fine all excepted persons in the bill of indemnity. This united all the connexions of the persons excepted to oppose every bill for the reversal of proceedings which were likely to entail pecuniary compensation to the party aggrieved, and this combination was strong enough (particularly in the Lords) to throw out every bill of this nature. It was originally proposed by three bills, that the fine of £8,000 should be repaid to Williams by Sir Robert Sawyer, who had filed the information against him. Sir Robert was in consequence heard against the bill, both in person and by counsel, and though passed by the Commons, in 1695, it failed in the Lords. On this occasion, Williams made a speech in vindication of himself. The following are some of the loose memoranda containing the heads of his speech: "Earl of Macclesfield will testify that I refused the chief justiceship of Chester, because I would not be thought to do any thing that might seem to incline against the interest of the Commons in that trust. In this proceeding posterity will justify me. I look upon this as the glory

and honour of myself and family. If I had submitted to the information, if I had tamely yielded and confessed, it had been better with my estate but worse with my reputation."

So far the lawyer acted well, but it would have been better for his reputation, however much the worse with his estate, had he consistently maintained his principles. For a period of several years he continued faithful to his party-friends, and was selected to defend some of the noblest victims to state prosecutions, when Charles II. had resolved to rule without a parliament, and, hardened into cruelty by his selfish terrors, to dip his sceptre in blood. After the Presbyterian Plot broke out in 1683, to quote the prejudiced Anthony Wood,[q] "Williams became an advocate for them and the fanatics, particularly for John Hamden, Lawrence Braddon, Sir Samuel Barnardiston, and Algernon Sidney." He conducted their several defences with marked courage and zeal. In the last case, he was harshly reproved by the judge for prompting his heroic client, and stopped in some forcible comments on the character of the leading witness for the crown, "that monster of a man," as Evelyn justly termed him, Lord Howard of Escrick. Having observed with much pertinency, "May it not be believable that what he hath said, he hath said only for his own sake, and that he has, by exposing this gentleman and the blood of others, procured himself a pardon." The lord chief justice interrupted him, "That is a harsh word and too roundly expressed; you had need to explain yourself; it is a little too rank, as though the king's pardon were to be procured by blood."

In the progress of the trial, Jeffries contrived to

[q] Wood's Athenæ Oxonienses.

give the hardy advocate, with whom he had a personal ground of quarrel for the reprimand he had pronounced as speaker, "a lick" (to use his own expressive phrase) "with the rough side of his tongue."

The counsel called a Dr. Needham into the box, to say what opinion Lord Essex had of Lord Howard, evidence clearly inadmissible, and the judge expressed his amazement. "I only offer it thus," faltered in explanation the intrepid counsel, when the chief thundered forth, "Offer what is evidence, man!" The *man* was soon to be reconciled to Jeffries, for he had no high standard of moral worth. In an unhappy hour for his good name, he abandoned his former principles to the gratification of self-interest and revenge. The oracle of the whigs, the amerced and liberal speaker of the two last parliaments of Charles, the terrorist against popery and arbitrary power, he suddenly renounced all his political connexions, became reconciled to a popish king and a despotic court, received the honour of a baronetcy (if honour it could be called), in 1686, at the hands of James, was appointed solicitor-general, and had, as a crowning infamy, the conviction of the Seven Bishops entrusted to his special management, under promise of the seals in the event of success.[r]

He carried the prosecution, we read in a letter of the times,[s] as high as possible; boasting that "he had tacked about, and would teach others to do so too." His choleric and unjustifiable deportment during the trial, both to the judges, the opposing counsel, and the venerable prelates; his petulant interruptions; his consummate assurance in laying down positions the most remote possible from law; show the whole man to

[r] Yorke's Tribes. [s] Sir H. Ellis's Letters.

have been infected with the spirit of a Scroggs or a Jeffries, and to have imbibed all the virus of his royal master. The by-play of the advocates, that diversified the course of the proceedings, however amusing, is anything but complimentary to the forensic courtesies of the times. When a formal objection was taken to the criminal information that it contained the words 'vi et armis,' and the solicitor asserted boldly that these words were constantly inserted,' the Bishop of Peterborough ventured to ask, "Was it so in your own case, Mr. Solicitor?" Sir Wm. Williams retorted; "Yes, it was so in my own case, and you were one of them that prosecuted me for ought that I know; or if you did not prosecute me you preached against me, or if you did not, some of your tribe did." After this singular burst of spleen, he interrupted the clerk of assize, who was proceeding to read the information in English, and desired him to read it in Latin. The Bishop of Peterborough appealed to the chief-justice: "My lord, we request it may be read in English, for we don't understand Law-Latin." This request appeared too reasonable to be acquiesced in by the rancorous manager of the prosecution. "No, my lords, the bishops are all very learned men, we all know; pray read it in Latin," and in that abominable jargon it was accordingly read.

The interchange of those innocent missiles, hard and bitter words, between Williams and his fellow-apostate Sir Robert Sawyer, seems to have been incessant. When that rival-worthy prayed the judgment of the court, whether "the cases put by Mr. Solicitor were like the case of the bishops, for whom he appeared as leading counsel," Mr. Solicitor recrimi-

nated the 'argumentum ad hominem.' "They are as like as Sir Robert Sawyer is to Mr. Attorney that was!" and again; the solicitor-general sharply asked, "How many times have you been accused of playing tricks, Sir Robert Sawyer?" Sir Robert might well apply the personal retort: "Not so many times as you, Mr. Solicitor!" His scolding interruptions often called down the displeasure even of the partial chief-justice. Having alleged that the publication was proved, Sir Robert Sawyer denied that it was so, saying, "We oppose that Sir!" Upon the solicitor replying, "You oppose it! We know you 'll oppose what's common sense, we don't speak to you, we speak to the court," the chief-justice rebuked this petulance, with more propriety of feeling than felicity of phrase: "It is unbecoming men of your profession to be chopping in and snapping at each other."

Mr. Finch, another counsel for the defendants, being stopped in some objection by the shrill vociferation, "My lord, is this to be suffered?" Mr. Finch continued his objection with some point: "I was not going to invade that privilege, which Mr. Solicitor claims, of making objections and not permitting an answer;" and Sir Robert Wright added, "Pray Mr. Solicitor, give us leave to hear fairly what they have to say, for I perceive he cannot offer to speak but your presently stop his mouth! Do not chop in upon him!" a somewhat undignified remark, it must be confessed, but certainly most pertinent. Aware, as a shrewd lawyer must have been, of the difficulties of his wretched case, the crown advocate sought to deter the defendants' counsel from their duty to their clients, by taunts and innuendoes too well understood in those days of illegal violence. When Serjt. Pemberton, in cross-

examining the most important witness for the crown, Lord Sunderland, summoned upon the exigency of the case, put a searching but most pertinent interrogation, the following extraordinary dialogue ensued:—

Serjeant Pemberton. "I would ask this question sir,—when the bishops came in the second time, whether they did desire to know if it were his majesty's command that they should own it?"

Solicitor-General. "If men will be so pressing, I for the king desire the question may be entered!"

Sir Robert Sawyer. "What do you mean, Mr. Solicitor?"

Solicitor. "I know very well what I mean, sir; I desire the question may be recorded in court."

Serjeant Pemberton. "Record what you will, I am not afraid of you, Mr. Solicitor."

Solicitor-General. "Are you afraid of the law?"

Lord Chief Justice. "Pray be quiet, gentlemen."

After the counsel for the bishops had established a most triumphant defence, and produced document upon document, confirmatory of their strict right to act as they had done, Sir William Williams attempted to destroy the effect of these precedents, by an ingenious but unfounded distinction between what might be legal, the presenting of petitions by a subject to the king, when parliament was sitting, and what was illegal during the recess.

"All those precedents that they have produced, of what the Lords did and what the Commons did in parliament, is no warrant for them to shelter themselves under against the information here in question." Here Mr. Justice Powell spoke aside to the lord chief justice:—"My lord, this is strange doctrine. Shall not the subject have liberty to petition the king

but in parliament? If that be law, the subject is in a miserable case!" His chief replied in an audible whisper, "Brother, let him go on, we will hear him out, though I approve not of his doctrine."

On the solicitor-general restating his sophistical argument, "The Lords may address the king in parliament, and the Commons may do it, but that therefore the bishops may do it *out* of parliament does not follow," the honest puisne judge felt himself again compelled to interfere: "My lord, this is wide. Mr. Solicitor would impose upon us, let him make it out, if he can, that the king has such a power, and answer the objections made by the defendants' counsel." The chief was surprised by this remark out of all patience. "Brother, impose upon us indeed! He shall not impose upon me; I know not what he may upon you: for my part I do not believe one word he says!" Another puisne judge was too uneasy between his judgment and inclination, his knowledge and fears, to remain longer silent. Mr. Justice Holloway now addressed the solicitor, pronounced ex cathedra to be so little worthy of credit. "There is one thing I would fain be satisfied in. You say the bishops have no power to petition the king."

Solicitor. "Not out of parliament, sir."

Mr. Justice Holloway. "The king requires the bishops to disperse his declaration; this, they say, out of tenderness of conscience they cannot do, because they apprehend it is contrary to law, and contrary to their function. What can they do if they may not petition?"

The solicitor, for want of a better answer, was compelled to make this ignominious reply:—"I'll tell you what they should have done, sir. If they were

commanded to do anything against their conscience, they should have acquiesced till the meeting of parliament!".

At this miserable subterfuge, some people in court, we are told, hissed,[u] but the intrepid sophist persevered. "If the king will impose upon a man what he cannot do, he must acquiesce, but shall he come and fly in the face of his prince? shall he say it is illegal, and that the prince acts against prudence, honour, or conscience, and throw dirt in the king's face? Sure this is not permitted. This is libelling with a witness." Such a sorry compound of bad rhetoric and bad law was demolished by Mr. Justice Powell, in a tone of grave expostulation. "Mr. Solicitor, it would have been too late to stay for a parliament, for it was to have been distributed by such a time." From this dilemma the crown-lawyer could find no escape, but faltered forth, "They might have lain under it and submitted." Alas! for the broken spirit of the once rampant whig, when it could be brought to enunciate this slavish dogma. We cannot wonder that the feelings of the excited audience should have found vent in repeated exclamations of displeasure, however unbecoming a court of justice, or that they should have hissed long and loudly, when the solicitor had the hardihood, forgetting the sure contrast his hearers must form between the past and present, to enlarge on the Bill of Exclusion.

The case for the prosecution had miserably failed—not a shred of proof of publication was left together; in any other days but those of legal violence, the jury would have been directed at once to return an acquittal, when the temporizing chief justice began to sum up. The happy indiscretion of Mr. Finch, who

[u] Sir H. Ellis's Collection of Letters.

interrupted his lordship, to suggest the defect of evidence, caused the partial judge to pause, that the chasm might be supplied, and encouraged the counsel for the prisoners to rest their defence upon a solid foundation, a firm principle of law. Abandoning all technical ground, they boldly submitted that the king had no power to dispense with laws. The jury were shut up in a private room all night, at six in the morning agreed on their verdict, and, when the judges re-entered the court at nine, pronounced an acquittal. The vast shout of applause, which rang through Westminster Hall, startled the ear of Jeffries as he took his seat in the court of chancery, and, being informed the reason, he was perceived to cover his face with a large bouquet of flowers, to conceal a smile, as much as to say, "Mr. Solicitor, I keep my seal."

"Palace Yard," says Coke, "and all the streets about were thronged with an infinite people, whose loud shouts and joyful acclamations, upon hearing the bishops were acquitted, were a very rebellion in noise, though far from being so either in fact or intention." The rejoicings of the people appear to have galled beyond endurance the sensitive feelings of the disappointed law officers of the crown. We read in the Ellis correspondence, of the solicitor's personal activity in attempting to seize the triumphant rioters, mortified spleen and baffled ambition lending wings to his zeal. Some of the gown were as loud in the rejoicing as any, for which the attorney-general caused one of Gray's Inn to be seized, and bound him to answer to an information. "The solicitor-general was likely to catch another, but that he narrowly escaped with the crowd." At night, bonfires and illuminations attested the popular joy, blazing up the more from the

vindictive and abortive efforts to quench it. A few days afterwards several were indicted as rioters at Hickes-Hall, for being concerned in the making of bonfires, but the grand jury, in the true spirit of John Bull, would find no bill, though sent back no less than three times. These insolent perversions of all law and justice were perpetrated in the summer of 1688: in six months the cause of the constitution and social order prevailed—the tyrant and his myrmidons were at mercy. A new king, a new parliament, new laws succeeded to try the heart and test the principles of public men. Williams had neither the fortitude nor integrity to linger long in the camp of a routed party. He had deserted the weak and defenceless before; he was ready to double and turn again. By a second treachery, he sought the favour of a new monarch in abandoning the cause of his abdicated prince. Summoned to the convention parliament, the late speaker pushed himself into the van. On the 28th January (six months after the acquittal of the bishops) he proposed a resolution: "That James II., by withdrawing from England, has deprived the kingdom of England of the exercise of the kingly dignity," and suggested with unfaltering tongue "that the House should consider the arbitrary power given to the late king by the judges: weak judges will do weak things their master commands them; they read no books and know nothing to the contrary. I could give many instances."

Eager to pay his court to royalty, he proposed that a revenue should be settled on the new king for three years certain, and made a merit of not being a member of the only parliament convened by his predecessor, artfully insinuating that he was a martyr

to his disinterestedness as speaker, and that his independent spirit had been the cause of his exclusion. Notwithstanding his assurance and braggart boasts, the reproach of tergiversation was too recent not to excite the angry notice of more consistent senators. The following report of a dialogue with How, called the shrew of the House, shows how boldly the crown lawyer confronted their displeasure.[v]

Sir William Williams. "I can fast as well How, but I cannot pray so well."

How. "If Williams had gone on in the way he was once in we should have had all fasting and no praying."

Williams. "How has forgotten the bishops were acquitted, and who had a hand in doing it!"

How. "I protest I do not accuse Williams for acquitting them!"

The day after the expulsion of Sir Robert Sawyer, it was moved by Mr. Bertie that the name of Williams should be excepted from the bill of indemnity. A long and warm debate ensued. "There are men," said Sir R. Napier, "who carry the mark of Cain upon them—men that sailed before every wind; one has been named, and I desire he may withdraw." Old Serjeant Maynard enlarged on the enormity of an archbishop and six bishops being brought to trial by a jury at the King's Bench bar, for a modest and dutiful petition to the king. "How monstrous that such a petition could be construed into a libel!" The ex-solicitor's conduct in the chair was with difficulty permitted to atone for his delinquencies in Westminster Hall—the fight at Shrewsbury was at length taken as a set-off for the affair at Gad's Hill. He

[v] Parliamentary History, vol. v.

escaped by the narrow majority of 17—dividing 190 against 173. But, though unpunished, he was also unrecompensed for his heavy losses as speaker, and became once more the legal architect of his own fortunes. Restored to his rank of king's counsel, he resumed his profession with considerable pecuniary profit. We are informed by Yorke,[w] that he had read an opinion of his, after he had left the chair, and ceased to hold office under the crown, adding, "Pemberton, who had been chief of both benches had done the same, and his opinion is also to the same case." But a bar was put to all hope of further professional advancement. Surviving the greater portion of King William's reign, he never but on one occasion was intrusted with a confidential mission, to investigate a supposed seditious conspiracy of certain Roman Catholics in Lancashire. His conduct there has been bitterly censured by the whig party: he is charged with having colluded with the accused, and thrown discredit on the witnesses for the crown, but whether the charge rests on sufficient evidence, the details of that obscure intrigue give too indistinct a light for the modern historian to venture an opinion.

He closed a versatile and turbulent life at his chambers in Gray's Inn, in July 1700, aged 66, justly obnoxious to the reproach of being[x] a corrupt and vicious man, who had no fixed principles, but followed his own interest, happy in one circumstance at least that he has founded an illustrious line of descendants, whose merits are sufficient to redeem even his memory from disgrace. He was of short stature and hand

[w] Royal Tribes of Wales. [x] Burnet.

some; his portrait by Allen presents a round Welsh face, with quick, lively features, and an expression of much intelligence. His younger son John was a provincial barrister of some eminence at Chester, and ancestor to Sir John Williams of Boddlewyddan.

CHAPTER XIII.

In the life of a far better man, the staunch tory lawyer, Robert Price,[a] written, as the title-page assures us, by appointment of the family, we are informed that he was born at Cerrig-y-druidion, North Wales, in 1653, and educated at the Grammar School of Wrexham, and St. John's Cambridge, that he made the grand tour for two years, and on his return married a gentlewoman with £13,000 fortune. One anecdote of his tour is worth noticing. Being detained at Florence, and afterwards at Rome, on suspicion of heresy, some few of his law books formed the subject of a very strict inquiry, in particular Coke upon Littleton, which was taken for an English heretical bible. The young lawyer was carried to the Vatican, where he soon convinced his accusers of their error, and made a present of the book to the Pope, who immediately assigned it a place in his library, on the very same shelf where are deposited Anne Boleyn's Letters to King Henry VIII. Returned to parliament in 1679, he gave his vote against the bill of exclusion.

These high prerogative politics caused him to be removed at the Revolution from two snug appointments which he held, as attorney-general of Glamorganshire,

[a] Life of Mr. Justice Price, 1732.

and town-clerk of Gloucester. "Excepting that ever-memorable battle of the Boyne," says the jacobite writer of his life, "the chief business of five years was only the promotions and exorbitant grants of King William to his favourites, especially that most noted one to William Bentinck."

The king made his countryman Earl of Portland, Knight of the Garter, and, with other lands, granted him in perpetuity the lordships of Denbigh, Bromfield, and Yale. The warrant for this grant being forwarded to the Lords of the Treasury, Sir William Williams, Sir Roger Puleston, Sir Robert Cotton, and Mr. Price were heard against it. Mr. Price objected that the grant was of large extent, being five-sixths of a large county; that it was too great a power for any foreign subject to have; that the people of the county were too great to be subject to him; that the proposed grant, subjecting his countrymen to a foreign subject, would put them in a worse posture than their former estate, when under William the Conqueror and his Norman lords. He drew a warning from the history of Owen Glendower, an inferior person of the long robe, till a stranger would have encroached upon the waste and commons of his neighbour, and then he became a terror to the English nation. "Good kings," the patriotic orator concluded, "after a long and chargeable war, were accustomed to tell their people that they sorrowed for the hardships the nation underwent by long wars and heavy taxes, and that now they would live on their own; but it is to be feared, if grants are made so large and so frequent, there will be nothing for the king or his successors to call their own to live upon."

In consequence of these representations, the issue

of the grant was suspended at the Treasury, and, Mr. Price on a subsequent day presenting a petition from the county against it, made a speech "that will," says his biographer, "remain a permament memorial of the speaker's praise, whilst the blessings of liberty and property are to be found among us." His oratory had so great an effect, that a motion against the royal bounty was carried unanimously, and an address presented to the king by the speaker attended by the whole House. The king assented to this request, but with a growl: "I will recall the grant and find out some other way of showing my favour to him." A resolution, drawn up by Mr. Price, was afterwards entered on the journals—"That the procuring or passing exorbitant grants by any member, then of the privy council, in that or any other reign, to his own use or benefit, was a high crime and misdemeanor." His speech appears to have been too full of libellous truth to bear publication during King William's reign. But, the year after his death, it was printed under the title "Gloria Cambriæ, or the speech of a bold Briton against a Dutch Prince of Wales," and bearing the apposite motto, "opposuit et vicit." His harangue is, however, more memorable for the strength of its facts and patriotic boldness than for rhetoric or eloquence, for example: "This grant halts, I suppose, till the parliament rises, and then, I doubt not but it will find legs and take its journey." "The bounty even if perfected, was ominous. History and records tell us that the grants of these lordships have been very fatal to either prince or patentee; the one either lost his crown, or the other his head."

The following indignant murmurs at the ruinous, impoverishing influence to which foreign counsels had

reduced the honour of the crown and the credit of the people found a responsive echo in the breasts of all who heard him. "I suppose this grant of the principality is a forerunner of the honour too, and then I shall fancy we are returning to our original contract; for, as story tells us, we were first brought to entertain a Prince of Wales by recommending him to us as one that did not understand the English tongue, and our forefathers thence inferred that he must be our countryman and no foreigner, and one that understood the British language: how we were deceived therein is palpable. I suppose this lord doth not understand our language, nor is it to be supposed that he will come amongst us to learn it; nor shall we be fond of learning his.

"I would gladly know from those who are better versed in prerogative learning than myself, whether his majesty can by the Bill of Rights, without the consent of parliament, alien, or give away the inheritance, or an absolute fee, of the crown lands. If he can, I would likewise know to what purpose the crown was settled for life with a remainder in succession, if a tenant for life of the crown can grant away the revenue of the crown, and which is incident to the crown. It cannot be pretended that he shall know our laws (who is a stranger to us and we to him) no more than we know his counsellors, which I wish we did. Every parliament we find endeavours for a general naturalization, and that warmly solicited from court. We see our good coin all gone and our confederates openly coining base money of Dutch alloy for us. We see most places of power and profit given to foreigners. We see our confederates in conjunction with the Scots to ruin our English trade. We see the revenues of

the crown daily given to one or other, who make sale of them, and transmit their estates elsewhere. So that I foresee, when we are reduced to extreme poverty, as now we are very near it, we are to be supplanted by our neighbours, and become a colony to the Dutch. I shall make no remark on this great man, for his greatness makes us little, and will make the crown both poor and precarious; and, when God shall please to send us a Prince of Wales, he may have such a present of a crown made him as a pope did to King John who was surnamed *Sans terre*, and by his father Henry II. made Lord of Ireland, which grant was confirmed by the pope, who sent him a crown of peacock's feathers, in derision of his power and the poverty of his revenue. I would have us to consider we are Englishmen, and must, like good patriots, stand by our country, and not suffer it to become tributary to strangers. We have rejoiced that we have beat out of this kingdom popery and slavery, and now do with as great joy entertain socinianism and poverty! and yet we see our properties daily given away, and our liberties must soon follow."

It spoke well for the magnanimity of William that, though naturally provoked at the freedom of his speech and the boldness of the honest patriot, who could venture to utter such home truths, he had too much respect for the speaker to oppose his professional advancement, and in 1700 ratified his appointment as Judge of the Brecknock Circuit. Mr. Price resigned his seat for Weobly, which he had represented twenty years, in favour of his son, on the accession of Queen Anne, and was appointed one of the barons of the exchequer. He came within the description which Jethro gave to Moses for appointing judges over Israel.

"They must be men of courage, and men of truth, fearing God and hating covetousness." Finding his fortune more than sufficient for his wants, in 1710 he built and endowed an alms-house, to maintain six poor people for ever, at the place of his nativity. After continuing in the exchequer twenty-four years, in 1726 Baron Price exchanged that court for the more easy labours of the common pleas.

The first historian of his life, writing in 1732, takes abundant pains in confuting the rumour, that the worthy judge was induced by motives of profit to make the exchange; after disproving this notion from the general character of the man, he adds what must satisfy the most sceptical: "Besides, they, who would have the world think thus meanly of the judge, happen to be mistaken in the very foundation of their assertion, for all who know the common pleas and the exchequer know the salaries of the judges of both courts to be the same, and that the casual or adventitious fees for business done in chambers are no higher in one court than in the other." A feeling of dissatisfaction at so many juniors being put over his head might also promote his wish for the change. A perfect master of the business of that court, he would reasonably have expected to fill the highest station in it, had not the exclusive favouritism of the whigs precluded all hope to any of the opposite faction. He had been retained in his seat by George I., but was too good a tory to be preferred. The firmness and integrity of his judicial character were put to the proof, on a very remarkable occasion. A quarrel and open rupture having ensued between George I. and the prince of Wales, on occasion of the baptizing of his son, the prince having wished the duke of York to be one of the god-

fathers, and the king insisting on the duke of Newcastle, an order was sent by Lord Chancellor Cowper, requiring, in his majesty's name, the opinion of all the judges upon the following question: "Whether the education and care of his majesty's grandchildren, and the ordering the place of their abode, and appointing their governors, and governesses, and other instructors, attendants, and servants, and the care and approbation of their marriages, when grown up, belongs of right to his majesty, as king of this realm, or not?" Ten of the judges, with Parker and King, chief justices, at their head, afterwards successively lord chancellors, gave an unhesitating opinion in the affirmative, but without stating authorities or reasons.

Baron Price and Justice Eyre, who differed from the other judges, divided the question, and gave it as their matured judgment that the education and care of the grandchildren belonged wholly to the prince, their father; but that the approbation of their marriages, when grown up, did belong to his majesty, as king of this realm, yet not exclusively of the prince their father. "The rights of the father they founded jure naturæ, and, after citing Littleton, Coke, and Vaughan, concluded it to be the general rule of law, that the guardianship of the children is a right common to every subject of this kingdom who is a father, without exception. After distinguishing the cases of civil law in Bracton and Fleta to the contrary, they summed up their elaborate opinion with a proposition, to which a modern lawyer may be expected to give his assent, "that the prerogative claimed in the care and education of your majesty's grandchildren ought not to supersede a father's rights." The cautious writer of the life of Judge Price, sagely

remarks upon this: "Now what must afford the reader a most agreeable contrast in so weighty a debate is, that the ten judges could not find any authority against the whole question, and the two other judges assure his majesty, 'that there is no one expression in any of our law books that warrants any such assertion. We shall not presume to give any opinion of our own. The precipice is too steep for private men to look down!'"

The poor child, just as this opinion had been delivered, died, and the Duke of Newcastle, presiding at the funeral, as lord chamberlain, occasioned the sarcasm, "that his Grace had the honour to introduce the prince twice into the church, once into the bosom, and once into the bowels of it!"

Lord Oxford was a great friend of Baron Price, and, as lord treasurer, told him that he should have any thing he had in his power to give, but the bold Briton would accept of no place under any restrictions. Thus incorrupt and independent, he lived till February, 1732, and then expired in his seventy-ninth year, exclaiming in a violent rack of pain, "It is hard to die."[b]

His eldest son, member for Weobly, had perished at Genoa. In his life-time several letters addressed to his father "honoured sir," and signed "your dutiful son," mark the formal manners of the age. The circumstances of his death might have formed the subject of romance. "His person was very amiable, and more peculiarly so from his having a fine head of air, with which," writes his simple biographer, "the Madonnas became extremely enamoured, and when these ladies had a lover to their liking (especially among all the foreigners they meet with an English

[b] Noble's Continuation of Granger.

gentleman), if they signify any inclinations of a departure, they make them a present of an unknown dose, which will put a period to their lives according to the time, it is allotted for, either of days, months, or years." Another rumour is related, with equal credulity, of the cause of his death. Mr. Price, being at an entertainment, drank to a lady, the wife of a Venetian nobleman, which was by the husband so highly resented, that he vowed his destruction. Some gentleman in courtesy desired Mr. Price to go post to Genoa, from which he was at that time about twenty leagues distant. He did so, and arrived there in safety; but he was pursued by bravoes, and through the lattices of his chamber window, in the inn where he lay, shot in his bed the next morning. The senate of Genoa seized all his effects, and, being a Protestant, they permitted his remains no other than a watery grave, letting them down in a leaden coffin into the sea. This country is now held in higher consideration with foreign states, and it may be doubted whether any power would venture to confiscate the goods of a member of parliament, who chanced to die in their territories, on account of his being a Protestant. Of this there can be no doubt that such an outrage on the law of nations would not now be suffered to pass without inquiry and without redress.

The contrast is great between the mild and consistent Tory lawyer, Mr. Price, and the fiery jacobite, Sir Bartholomew Shower, who used, during the reign of King William, to cross the path of the whigs with impetuous conflict, and whose career appears to have been as eccentric as his name. We should feel no surprise that so little mention has been

made of this remarkable person in the "Biographia Britannica" and "Biographical Dictionary," for these incomplete and partial records are peculiarly unjust to lawyers, and even fail to notice his illustrious patron, Holt, the best and brightest name in the illuminated annals of the Queen's Bench.

In the memoirs of his brother, Mr. John Shower, late minister of the gospel in London, 1716, we are told, that their father William followed the business of a French merchant at Exeter, with good success, and that in charity he resembled a wealthy merchant, who, having lost £1500 in one ship, ordered his cash-keeper to distribute another £100 among poor ministers and Christians; "for," he said, "if it be going by £1500 at a lump, it is time to make sure of some part of it, before it be all gone."

The second son was an eminent dissenting minister in Exeter. Of the third son, Bartholomew, the author makes only passing mention, nor in his own Diary does the lawyer once allude to his brother, the eminent non-conformist divine, who wrote ably and zealously in defence of the tenets of his party. The difference in their religious sentiments may probably account for this silence, the younger brother being a stanch high-church divine. Among his MSS., so valuable to the lawyer, still preserved in Lincoln's Inn library, are found the following pithy hints for an autobiography. What barrister can fail to admire the author's particularity as to dates![c]

"Tuesday, 3 afternoon, December 14, 1658. Was born at Exeter, in Northgate Street.

"June, 1678. On a Sunday night was my chamber burned, with a great part of the Middle Temple.

[c] Shower's Reports by Butt.

"Last Friday in Easter term, 1680, I was called to the barre.

"Saturday, January 21, 1681-2. I was married in Bread Street by Samuel Johnson, afterwards the author of 'Julian the Apostate.'

"1685-6. Jenner being made a baron, Sir John Holt was made recorder, and he made me his deputy.

"Saturday morning being Whitson-eve, May, 1687, I was knighted, and then made deputy to Sir John Yate, who was recorder upon Sir John Holt's quitting the same.

"February 14, 1687-8. I was made king's counsel and recorder upon Sir John Yate's being made a Welsh judge.

"Michaelmas, 1688. I was removed from being recorder, upon restitution of the city franchises by King James.

"December 15, 1688. King James left England, and Easter term I came the first day without the barre, and so continued every day.

"April 2, 1692. I built my new chamber at Chelsea."

To these peculiar entries may be added the two following memoranda, amusingly characteristic of the cautious lawyer, and proving the virtue of an &c.:—

"Trinity vacation, 1 James II. King's bench.

"In Trinity term, Monmouth's rebellion in the west prevented much business. In the vacation following by reason of that rebellion, there was no assize held in the western circuit; but afterwards five judges went as commissioners of Oyer and Terminer, and gaol delivery, and 351 of the rebels were executed, &c.

"Hilary term we had none, by reason of the &c."—

the diarist's singular method of alluding to the abdication of King James.

The fact recorded in this modest diary, that Sir John Holt chose him for his deputy, at a time when there was no dearth of eminent men below the bar, and he had only attained his twenty-eighth year, proves the extent of his assiduity and talents. He seized the first opportunity to display the loyal nature of his politics, and when James II., on his accession, issued a proclamation to continue the payment of the revenues and excise, until parliament should have settled a sufficient revenue on the crown, drew up a truckling address from the inns of court, declaring, with more courtliness than truth, that his majesty's high prerogative was the greatest security of the liberty and property of the subject. This ultra-loyal address, presented, we are told, by Sir Humphrey Mackworth, at the head of a noble train of lawyers, concluded in the full fervour of legal devotion: "May there never want millions, as loyal as we are, to sacrifice their lives and fortunes in defence of your sacred person and prerogative in its full extent, and incessantly pray the King of Kings to grant your majesty a long and happy reign!"[d]

That the author of such unconstitutional doctrine and such a rhetorical prayer should be promoted to the recordership of London was the natural course of policy pursued in that unhappy reign. That he should have been selected one of the counsel for the seven bishops seems at the first glance more extraordinary, but Sir Bartholomew was a stronger churchman than loyalist, had sacrificed his office from love to the Church of England, and would, even to wearisomeness,

[d] Clarke's Life of James II.

assert the independence of the bar. The following instances during the trial sufficiently attest his pertinacity.[e] Several counsel had been heard in the bishops' case, when the recorder rose. *C. J. Wright.*—"What again! Well go on Sir Bartholomew, if we must have a speech!" The counsel gave way, but when there was a pause for the arrival of Lord Sunderland, the judge interposed: "Sir Bartholomew, now we have time to hear your speech, if you will." Nothing daunted by the sarcasm, the persevering advocate repeated his objection, was answered, and again jumped up. "Will your lordship be pleased to spare me one word?"

Chief Justice. "I hope we shall have done by and by."

Shower. "If your lordship don't think fit, I can sit down."

Chief Justice. "No, no; go on, Sir Bartholomew, you 'll say I have spoiled a good speech."

The vote of abdication of James, which crushed his prospect of immediate promotion and shocked his prejudices, extracted at the same time from the eager tory those zealous efforts of patriotism on which his claims to respectful remembrance are grafted. "This prostitute court-lawyer," says Wallace, with his wonted bitterness,[f] "made some amends by resisting and exposing the abuses of the whig government, after the Revolution." Returned to the convention parliament for Exeter, the nursing mother of eminent legal worthies, he lifted up his voice loudly against the miscarriages of the new government, and, as reported speeches were not yet tolerated, fanned the national discontent by vehement pamphlets. A stanch supporter of the

[e] State Trials. [f] Wallace's Continuation of Mackintosh.

'right divine' of kings, he wrote a treatise—"The magistracy and government of England vindicated"—to defend the justice of Lord Russell's attainder, and though he could not establish his position, he proved undoubtedly that it was, in form of law at least, the least flagrantly unjust of those contempts on trial by jury, which stigmatised the closing scenes of the reign of Charles II.[s]

A devoted champion of the Church, Sir Bartholomew Shower wrote also a clever tract to enhance the importance of the convocation, when William III. resorted to the hopeless expedient of summoning his clergy to ward off the distractions of the government. Among the most virulent of the jacobite tracts, which inveighed against the new régime in a loud and daring tone, inflamed by the numerous and arbitrary commitments of the summer of 1691, was one intituled, "Reasons for a new Bill of Rights, humbly submitted to the consideration of a new sessions of parliament, by Sir Bartholomew Shower, Bart., 1692." Some of the passages, in which the author insists most strongly upon a new effort in favour of a bill for regulating trials in cases of treason, as a necessary security for the life of the subject, for the security of the subject's estate against the prerogative court of Chancery, and for the liberty and security of the subject's person against the encroachments of power, deserve to be transcribed for their natural and stirring eloquence.

"It must provoke an agony of wonder, that no more or better provision is hitherto acquired for the insurance of mens' lives and liberties. . . . . In the name of God, what harm can accrue to the public in general, or to any man in particular, that, in case

[s] Phillips' State Trials.

of state treason, counsel should be allowed the accused? What rule of justice is there to warrant its denial, when, in a civil case of a half-penny value, the party may plead, either by himself or advocate? That the court is counsel for the prisoner can be no effectual reason, for so they ought to be in every action unto each party, that right may be done; but the Frenchman's remark upon this phantom (for it is no more) hath sufficiently censured it: 'That my counsel ask no good questions for me: my counsel make no good sign for me—me no like my counsel!'"

After stating that the use of parliament is not barely the gift of subsidies, which help the king and people according to their respective occasions, the writer forcibly alludes to the slight actual benefit wrought by the convention. "The reversal of an attainder injuriously procured cannot render any satisfaction: the head returns not to the shoulders, nor life to the party, though the title be restored to the name, and the estate to the son of such a martyr. . . . . The convention of the estates of the realm in 88-9, intended somewhat more than the ejection of thirty or forty fat officers!"

Mixed with these valuable maxims of state polity and acute comments on defects in the law, are some sharp strictures on the Court of Chancery, tinctured with the bitter prejudice of a common lawyer. "In Chancery, the single and sudden thoughts of a lord keeper are the only rules for justice. Those monosyllables 'fraud' and 'trust' have already almost devoured every other title in the law. It is one of our first principles, co-natural to an English heart, to be tender and jealous of the loss of liberty of person.

"That no commitments ought to be, without oath

first made, is certainly law. It is an infinite default, that if a man be committed to a county gaol, and perhaps that may be, as it hath been, to Hull, or Canterbury, this man is remediless till an assize, and that sometimes not happening in several years, and then this wretch can't make his prayer in Banco Regis; he hath not money to procure a commission of gaol delivery of oyer and terminer, and if he had, perhaps 'tis denied him, and no provision made against such denial. Now here's an indefinite imprisonment! A further enemy to liberty is a power, still reserved to judges of a court, to commit upon pretence of contempt to them, and this out of the act, and such an authority hath every little petty court of record in the nation, and mistress Experience tells us every slight matter makes a contempt to them, and there's no examining the cause, for every court that commits is judge of the contempt. Further, there's no deliverance till submission and their discharge."

This fiery pamphlet carries a stinging P.S. in its tail. "At last it may be contended, what need of all this bustle and stir about liberty when parliament meets so often, that their awe prevents all these and many more possible oppressions? To this I'll answer by another query, what new security have we got, that, if the war cease, we shall have a frequency of those assemblies?"

The able author of these useful hints for constitutional reform lived to see a commencement partially made in the allowance of counsel to prisoners accused of high treason, and availed himself of the privilege just conceded by statute, with such excess of zeal as to bring its provisions into disfavour. The day after this excellent act had come into operation, Ambrose

Rookwood[h] was put upon his trial for high treason, and Sir Bartholomew, being chosen his leading counsel, instantly seized upon all sorts of captious and frivolous objections to the indictment: one of the most notable was for improper Latin, the indictment being framed at that time, to render it as unintelligible as possible, in a scholastic jargon called the Latin language by courtesy. "It says 'anno regni dicti domini regis nunc septimo,' and Lewis is the last king mentioned before, and so here is no king of England mentioned."

His former patron, Chief Justice Holt, shrewdly observed: "Do we call the French king 'Dominus Rex?'" but ordered the indictment to be read. On hearing the charge "Ludovico regi Galliæ subjugere et mancipare," he exclaimed pettishly, "Can any man imagine this to be the French king?" to which the counsel retorted with sturdiness: "My lord, your lordship is not to imagine one way or the other." His frivolous objection was, of course, overruled.

In pleading for the life of Peter Cooke,[i] another of the suspected traitors, the zealous advocate harangued the jury with more than usual force, in those ineloquent days among lawyers. "You are, gentlemen, to have respect to your consciences, and the oaths which you have now taken, to give true deliverance between the king and prisoner; you are not to go according to your own private opinions, nor according to public fame, nor according to common report, nor according to the indictment in other cases, nor according to the confessions or dying speeches of criminals who have been executed, whether made by themselves or by others for them, but you are to go by the testimony of credible witnesses, and, if you have not the evidence

[h] State Trials. [i] State Trials.

of two credible witnesses before you, my lords, the judges will inform you how the law stands."

Engaged in almost all the important trials of his time, Shower argued as counsel for Lord Banbury in 1694, when Chief Justice Holt delivered that famous judgment for the defendant, which so offended the peers that a committee of the House summoned his lordship to give reasons for his decision; but the firm and upright magistrate disdained compliance with such extravagant demands, and maintained the independence of the bench, even when threatened to be sent to the Tower. The like determined resolution was displayed by Shower, when pleading at the bar of the House of Commons against Fenwick's attainder.[k] He denounced the measure, with all the boldness of a lover of the constitution, and when, to procure evidence for their unscrupulous vengeance, ministers proposed to read Goodman's examination, as taken down in writing by Secretary Vernon, he reminded the House emphatically That, "if they were not bound by the rules of inferior courts, where the deposition could on no account or pretence be admitted, they were yet bound by the eternal and unalterable rules of justice, which such an admission would contradict. Now I would know, whether the form of an oath, which the wisdom of our ancestors has thought fit to use for 800 years, be not the most proper direction to inform us what shall be evidence? Evidence *primâ facie* must be evidence of living persons. I am speaking for the life a man, and for maintaining the rule of law, which I hope shall continue for ever, and one of those rules is, 'that the examination of a person that is absent shall not be read to supply his testimony.'"

[k] Parliamentary History, vol. v.

This intrepid advocate, defeated in the Commons, fought a losing fight with unabated ardour at the bar of the lords, and detained the peers till midnight with his vivid declamation against their tyrannical measures. A violent politician he threatened Lord Somers with parliamentary vengeance for granting to Captain Kidd the forfeited estates of pirates, which he pronounced to be illegal according to the letter and spirit of the law,[1] and plunged headlong into the factious violence of the impeaching House of Commons. Returned to parliament at the dissolution by a triumphant majority of 200 for Exeter, with Sir Edward Seymour, he was meditating a campaign, "bellum plusquam civile," when death smote him unawares. He was carried off by an attack of fever, at his seat near Harrow on the Hill, in the autumn of 1700.

Sir Bartholomew died at the most unluckymoment for his prospects of deserved promotion, on the eve of a tory court and high church government, amongst whom he might have fairly claimed a leading place. He was consistent in his politics, however violent and extreme and, strange for a lawyer of that æra, persisted in the even tenor of his way straightforward to the end. He had warred to the death against the whiggish tendencies of King William's reign, and given as his watchword a memorable axiom; "that the inclinations of Englishmen and the laws of the land will never quadrate with a commonwealth."

Equally rapid, impetuous, and eccentric in his meteoric course with the subject of the preceding memoir, was that eminent whig lawyer, who more than any other profited by the accession of the House of Hanover, was Mr. Nicolas Lechmere, the descendant

[1] Vernon's Letters.

of an ancient family, which came originally from the Low Countries and served under William the Conqueror. The grandson of a baron of the exchequer, he selected the same profession and signalized the early part of his career by a romantic adventure.

Having pleaded before the Lords, on the return to a Habeas Corpus contrary to a resolution of the House of Commons, he was ordered, in requital of his manly daring, into the custody of the serjeant, and evaded the attempts of the messengers to seize him with clever hardihood. The baffled serjeant, failing to produce his prisoner, made a special report to the angry Commons, that "he had like to have taken Mr. Lechmere, but that the young gentleman got out of his chambers in the Temple, two pair of stairs high, at the back window by the help of his sheets and a rope." The prorogation of parliament relieved the fugitive lawyer from further danger. At the Revolution he was made serjeant with eleven others, and gave rings, the mottoes on which conveyed a graceful compliment to King William, "Veniendo restituit rem."

Returned to parliament for Appleby in the following reign (1708), he was impetuous enough to speak the instant he had taken the oaths, upon which a country gentleman interrupted his maiden speech and facetiously objected to his right to be heard as he was not a "sitting member"[m] (he had never sat down since he entered the House and could not have qualified). Much as the race of ready talkers has increased, this alacrity of address exceeds any modern instance. Mr. Hunt spoke three times the first night of taking his seat; the Earl Cowper did the same. Mr. Praed and other lawyers are reported to have been equally quick

[m] Nash's History of Worcestershire.

of tongue, but they one and all took a longer breathing time. In most of the State Trials, so frequent at that day, Mr. Lechmere displayed similar prompt and vigorous ardour.

In Sacheverell's impeachment, Whiston's prosecution, and the trial of the printers, he was instant in bringing legal acumen to the aid of whig principles and practice. He refused all fees for the defence of that eccentric and heretical preacher, wrote a portion of the clever whig pamphlet "The Crisis," and when Secretary St. John, in humble imitation of the Stuart tyranny, caused fourteen booksellers to be taken up at once, and committed to the custody of state messengers, for publishing political pamphlets and ballads, he applied to the Queen's Bench for a Habeas Corpus with indignant vehemence, declaring that, if the duties of a secretary of state in England were discharged with outstretching tyranny like this, they would be as bad as those of an inquisitor of Spain!

His zeal and ability were rewarded at the Accession with the post of solicitor-general. As counsel for the crown and leader in the House, he moved the impeachment of Earl Derwentwater, and conducted some important prosecutions for high treason. Amongst these, the most deserving of notice was the trial of John Matthews for printing a treasonable libel. This apprentice to a printer, then only nineteen, had printed a short pamphlet "Vox Populi Vox Dei," the object of which was to prove, not only that every asserter of hereditary right must be a Jacobite, but the extraordinary paradox, "That every whig, who makes Vox Populi his rule of government, and every asserter of limited monarchy, must be Jacobites as well." "The Chevalier," this libel added, "only wants to be known

to be admired, we only want him to make us happy." This Quixotic tract might have been safely left to moulder in its own insignificance; but it was unhappily the temper of the times to visit sins of the press with excessive rigour, though the hard case of this stripling is among the few which it persecuted to the death.[n] The attorney-general opened the facts, which were short and clear, in a tone of moderation that contrasts most favourably with the bitter and vindictive spirit by which the public prosecutor was animated in preceding reigns. Since the Revolution, good taste and good feeling have forbidden the scurrilous invectives in which the souls of Jeffries and Sawyer and Williams delighted. "Gentlemen," said Mr. Lechmere, at the close of his address to the jury, "I have stated to you the circumstances of the evidence, and I have done it without any aggravation. I do not think it wants it: if the evidence comes out as I have laid it before you, it carries its own force, and you will give it its due weight. I am sorry for any one that falls under such an accusation, but more especially for one so young; but, gentlemen, compassion is neither your business nor mine; that belongs to another place, as the case shall appear."

In the desperation of their defence, the counsel for the prisoner were compelled to move in arrest of judgment, on the ground that the indictment, which an absurd, pedantic, custom still caused to be framed in Latin, was bad, in stating that he "impressit" such a libel, which word did not necessarily import printing, unless explained by an Anglicè, for the word might signify several things, besides printing, as sealing, or stamping. As to the original meaning of the word,

[n] State Trials.

it could never be taken to express printing. The Romans had no printing, and where they had not the thing they could not have the appellation proper for it. To this nice objection, the attorney-general made a conclusive reply, that the usage of two or three hundred years would give a sanction or signification to any word, though applied to a fact not at that time used, and that the words, "imprimatur liber" were as much known to all men and bodies of literature to mean, Let the book be printed, as any words in the language. Not content with this smashing answer, Serjeant Cheshire, his colleague, added that the word "liber" might be objected to with equal propriety, that it signified Bacchus, free, a book, and the bark of a tree.

Mr. Hungerford took issue with the serjeant's classicality, and denied that the word *liber* had so many different meanings. "In the early ages of the world, before writing was a common accomplishment, before vellum, paper, or parchment were found out, people wrote on the inward bark or rind of trees, which bark was called '*liber;*' thence, when paper or parchment was written upon, that was called liber too. As for *liber*, free, it is always used in an adjective sense, and a noun substantive is always expressed or understood; and as for *liber* signifying Bacchus, the serjeant hath been at dinner, he hath eat and drank plentifully; I dined with him, and find he hath forgot part of the name of Bacchus, for he is called *liber pater*, and not *liber* only, that I remember."

The judges were unanimous that the word *impressit* was very proper to signify printing, as used in the indictment, and that there was nothing in the objection. The whole discussion forms a curious

illustration of the refined and technical niceties upon which counsel for prisoners were then doomed to rely, and to which, from the improvement in pleadings, and the more liberal exercise of their privileges, they have no longer the misery to stoop. No mercy was extended to this misguided youth, who suffered at Tyburn for his criminal folly, and left his blood-shedding a stain upon the government, from which the attorney-general and chancellor of the duchy of Lancaster (Mr. Lechmere united both these lucrative offices in his person) was not wholly free.

Against another singular charge, that of corruption, preferred by his own colleague, the attorney obtained a triumphant acquittal. The pest of joint-stock companies at that time overran the country, and the fees upon their patents of incorporation formed no inconsiderable addition to the revenues of the law officers of the crown. The solicitor-general, Sir William Thompson, feeling jealous at the attorneys' receiving much larger sums of money than himself from some of these companies, and being alone consulted by others, in a fit of peevish folly denounced his colleague to the committee that had been appointed to inquire into all joint-stock companies applying for charters, and charged him not only with pocketing large bribes, contrary to his oath of office, but with permitting public biddings for charters at his chambers, as at an auction. Mr. Lechmere asserted his entire innocence with characteristic and honourable warmth. "He had the honour to be a privy councillor, chancellor of the duchy of Lancaster, attorney-general, a member of that House, and, more than all, a gentleman. Such an accusation of sordid baseness could not therefore but fall more heavily upon him.

He owned himself liable to a great many human frailties and imperfections, but his conscience wholly acquitted him of the crimes laid to his charge. He defied all the world, the worst and bitterest of his enemies, to prove him guilty of corrupt or unwarrantable practices, and demanded an immediate inquiry."

The infamy of the imputation rendered an early investigation essential, and a committee sat at once to hear the evidence. Sir William Thompson called, as his principal witnesses, the attorneys for the mines and battery companies, who proved that they wanted a charter of insurance, and had nine attendances before the attorney-general, with an array of six counsel on their side and three or four on that of their opponents, and kept up the discussion at his chambers from six till ten at night. Sir William Chapman and some others of the petitioners waited on Mr. Lechmere with his fee. He said, "What do they come to me for? Why do they not leave it with my clerk?" They said it was a matter of weight, and desired to give it into his own hands. The fee they gave was sixty guineas. Other witnesses proved that they also gave fifty guineas: a large fee, certainly, but far too little for a bribe. Mr. Lechmere's clerk said, in a cursory way, "They paid handsomely on the other side."

The clerk to the privy council proved that these references were sometimes ordered to be made to the attorney and solicitor jointly; there had been in the proportion of five to one at least to the attorney-general alone. Though the attorney-general's clerk had been too eager, there did not rest even a passing shadow of suspicion on his master. It was resolved unanimously, that the informations of Sir William

Thompson were malicious, false, scandalous, and utterly groundless, and the committee adopted with one voice a resolution, that "it appears the Right Honourable Nicholas Lechmere has discharged his trust in the matters referred to him with honour and integrity." The report was ordered to be printed, that the vindication of his character might be complete, and the futile malice of his accuser become generally known.

Sir William Thompson had previously suffered from an adverse vote of a committee of the House of Commons. Having petitioned against the validity of a member's return to the parliament of 1710, that tory House, bearing in mind his activity as a prosecutor of Dr. Sacheverell, voted his petition frivolous, false, and vexatious, and directed that he should pay all the costs to which his opponent had been put. But this vote only affected the politician, and might be easily imputed to party pique; the present resolution impugned his character as an honourable man. The branded slanderer might have been expected, one would think, to solicit the Chiltern Hundreds, and to have hid his disgraced head in seclusion; but these are the more delicate and refined notions of our comparatively scrupulous age.

Sir William Thompson was dismissed, indeed, from his office for his petulant extravagance, but lifted up his voice again among the loudest in condemnation of some libels, more innocent than his own, became recorder of London, and at last a baron of the exchequer, where, we may charitably hope, that he pursued with more success the study of temper and of truth.

Such an indecent accusation made by one law officer of the crown against another was at the time without precedent, and for the honour of the profes-

sion happily remains without imitation. Through the political as in the legal horizon, the course of the attorney-general may be traced amid those elements in which his nature, like that of the stormy petrel, seemed to take delight. His available services to the whig party were impaired, and in some degree neutralized, by a violent, proud, and impracticable temper, which rendered the impromptu orator an unsafe and capricious partizan.

To all whig measures of severity, for pressing bills of attainder against the exiled ministers of Queen Anne, and enforcing the laws against papists, he gave his eager assent. But, independent as dauntless, he refused, though in office, to support the Septennial Act. "Lechmere," writes a friend to Horace Walpole, "who always damns everything that does not come originally from himself, will battle it against the court to the last," and the prophecy was fulfilled. The douceur of the Duchy of Lancaster, a valuable sinecure, in the following year, could not wholly subdue his intractable spirit.

Ready to go out in all weathers, and prompt in debate, he was selected as the leading ministerial champion against Walpole, when that interested politician, for his own private gain, chose to embark in a factious opposition. They recriminated on each other with much personal asperity, but not on equal terms, as Walpole had more the ear of the House. Their heat in discussing the South Sea scheme is naïvely described in the private letter of a spectator.[o] "Mr. Lechmere answered Walpole, but little, God wot, to the matter in hand, for quitting that, he fell into invectives against his former scheme, giving great preference to this. Walpole, being irritated, rose again, and

[o] Brodrick's Letter to Lord Middleton.

began by showing, by papers in his hand, how very unfairly Lechmere had represented facts—then proceeded to show his fallacious mode of reasoning, and concluded with going more particularly into the scheme, which, in several material facts, he exposed sufficiently. Lechmere rose up, having taken time to consider whilst another had spoken, in order to reply: but this was prevented by the whole committee rising at once, and going into the floor; the chairman tore his throat with "to order, hear your member," but all to no purpose, other than to mortify Lechmere, by the members crying out, "We have heard him long enough."

Thus bitterly opposed in public, Walpole would not scruple in private to rally his rival, upon his turbulence of disposition, and drew a clever parallel between him and one of his coach horses.[p] The attorney-general, a great lover of fine cattle, overtook Sir Robert coming to London in his coach and four from Chelsea, and stopped to admire his team. Sir Robert agreed they were fine horses, but added with a significant smile, "There is one in the set that is worth all the rest, if he would not be restive but draw in company; sometimes he is so violent that he will draw all himself, at other times he will hang back, and do a great deal more harm than good!"

In reward for his powerful advocacy of the Sunderland administration, Lechmere was called up to the House of Lords in 1721, by the title of Lord Lechmere, Baron Evesham, and soon distinguished himself by strong speeches and as a stout protester. Though still opposed to Walpole, and forced into active opposition on that minister regaining the ascendant, he continued true to his principles, and, both in writing and

[p] Nash's Worcestershire.

speech, withstood the grant of any act of grace to Lord Bolingbroke.

A singular instance of his honest precipitancy is given in Coxe's Walpole, upon finding that nobleman in the royal closet, his access to which had been promoted by Walpole himself, that he might prove the futility of his enemy's accusations. While attending in an adjoining apartment, Lord Lechmere came and demanded admission for the signature of papers, which he had brought as Chancellor of the Duchy of Cornwall. He was informed that Bolingbroke was with the king, and that Walpole was also waiting. In the midst of his surprise, Bolingbroke came out, and Lechmere instantly rushed into the closet, and without making any apology for not entering upon his own business, burst into the most violent invectives against Walpole, whom he reviled as not contented with doing mischief in his own person, but must introduce one, who was, if possible, worse than himself to be his assistant. The king, delighted with his mistake, calmly asked him if he would undertake the office of prime minister. Lechmere made no reply, but continued pouring forth his invectives, and finally departed without having offered any of the papers to sign. Walpole found the king so highly diverted and occupied with this incident, that it was some time before he had an opportunity of inquiring the subject of Bolingbroke's conversation. The king slightly answered *Bagatelles, bagatelles.*

This impetuous and precipitate but honest partizan died suddenly when seated at table, from a fit of apoplexy, in June 1727, and, as he left no family, the title became extinct.

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